

Message

From: Fugh.Justina@epa.gov [Fugh.Justina@epa.gov]
Sent: 9/28/2018 5:55:19 PM
To: Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]
CC: Mills, Derek [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0b8b3681245c47d18908fd79db50a843-Mills, Dere]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
Subject: Re: a little help, please

Thanks so much! I'll pick it up from Carla on Monday.
 Happy weekend!
 Justina

Sent from my iPhone

On Sep 28, 2018, at 1:12 PM, Leopold, Matt (OGC) <Leopold.Matt@epa.gov> wrote:

Hi Justina, I have completed the revised form per your instructions and provided it to Carla to deliver to your office. Let me know if anything else is needed.

Thanks, Matt

Matthew Z. Leopold
 General Counsel
 U.S. Environmental Protection Agency
 (202) 564-8040

From: Fugh, Justina
Sent: Thursday, September 27, 2018 3:20 PM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Cc: Mills, Derek <Mills.Derek@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: a little help, please

Hi Matt,
 Your friends in the Ethics Law Office need a little help from you, please. Attached is the "ethics compliance letter" that you signed for the Office of Government Ethics. **Deliberative Process / Ex. 5**

~~#6. We advised you to complete it like Bill Weberum had done. He didn't feel that he could~~

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks in advance,
Justina

Justina Fugh | Director, Ethics Law Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Appointment

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 12/13/2017 2:04:37 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Griffo, Shannon [Griffo.Shannon@epa.gov]; Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Lewis, Josh [Lewis.Josh@epa.gov]
Subject: Follow Up with OGC/Ethics
Location: 5400
Start: 12/19/2017 7:00:00 PM
End: 12/19/2017 7:30:00 PM
Show Time As: Busy

To: Griffo, Shannon; Fugh, Justina; Lewis, Josh

Appointment

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 12/1/2017 6:14:25 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Griffo, Shannon [Griffo.Shannon@epa.gov]
Subject: General with OGC/Ethics
Location: Bill's Office, WJC-N Room 5406A
Start: 12/7/2017 7:00:00 PM
End: 12/7/2017 7:30:00 PM
Show Time As: Busy

To: Wehrum, Bill; Fugh, Justina; Griffo, Shannon

Appointment

From: Wehrum, William [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 11/14/2017 3:24:20 PM
To: Wehrum, William [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
Subject: Ethics Briefing for Bill Wehrum
Location: Bill's office - WJC-N, Room 5406 A
Start: 11/14/2017 9:00:00 PM
End: 11/14/2017 10:00:00 PM
Show Time As: Busy

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 7/25/2018 3:14:14 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
Subject: RE: question for you

Just tried to call you. I'm around most of the day. 564 2095

From: Fugh, Justina
Sent: Wednesday, July 25, 2018 10:28 AM
To: Lewis, Josh <Lewis.Josh@epa.gov>
Subject: RE: question for you

Hi,
I checked my notes again, and here's the timeline... I'm asking about a Hunton and Williams meeting he may have attended the week of 11/13, possibly on Tuesday, 11/14. Any ideas?
Justina

From: Lewis, Josh
Sent: Monday, July 16, 2018 11:14 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: question for you

My recollection is he was confirmed on November 9th. So you're asking if he attended an event November 10th? If that's the question, I don't know the answer b/c he didn't start here until the 13th.

From: Fugh, Justina
Sent: Monday, July 16, 2018 2:50 AM
To: Lewis, Josh <Lewis.Josh@epa.gov>
Subject: question for you

Hi Josh,
Kevin Minoli asked me whether Bill Wehrum attended an event at Hunton and Williams the day after his confirmation. Do you know anything about that?
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 10/2/2018 1:43:38 PM
To: Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]; Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
CC: DeLuca, Isabel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0b021c30cbee4637a7c7ca683e5e044a-IDELUCA]
Subject: RE: Ethics check: Crowell Moring invite for Bill Wehrum

Thank you Shannon.

From: Griffo, Shannon
Sent: Monday, October 01, 2018 3:39 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Cc: DeLuca, Isabel <DeLuca.Isabel@epa.gov>
Subject: RE: Ethics check: Crowell Moring invite for Bill Wehrum

Hi Josh,

Sorry for the delayed response. Based on the list of invited entities and event details, we do not have any ethics concerns with Bill speaking at this Crowell Moring panel.

Thanks for checking!
 Shannon

Shannon Griffo
 Ethics Attorney
 Office of General Counsel, Ethics
 U.S. Environmental Protection Agency
 (202) 564-7061
Griffo.Shannon@epa.gov

From: Lewis, Josh
Sent: Wednesday, September 26, 2018 3:05 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Cc: DeLuca, Isabel <DeLuca.Isabel@epa.gov>
Subject: Ethics check: Crowell Moring invite for Bill Wehrum

Justina and Shannon,

Byron Brown at Crowell Moring is pulling together an event in October (2nd attachment) and he's asking for Bill to participate on a panel (other panelists are TBD). If you look at the list of invited trade associations (1st attachment), you'll see it includes former clients of Bill's (AFPM, AF&PA, API to name three) but also about 100 others who weren't clients. **Deliberative Process / Ex. 5** but wanted to see if you had any questions/concerns.

Thanks for taking a look.

Josh

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 3/15/2018 5:39:48 PM
To: Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]; Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
Subject: FW: Invitation to Meet with the Leaders of the Trade Association Liaison Council, Manufacturing Action Council, and Regulatory Improvement Council
Attachments: 2017 RIC Membership.pdf; 2018 MAC LIST.pdf; 2018 TALC LIST.pdf
Flag: Follow up

This is the meeting request I mentioned on the phone earlier.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

I anticipate a range of issues would be discussed, including Clean Power Plan, oil and gas, biomass, NAAQS

Josh

From: Wayne H. Valis [<mailto:wvalis@wvalisllc.com>]
Sent: Monday, March 12, 2018 12:05 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>
Cc: Dravis, Samantha <dravis.samantha@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Letendre, Daisy <letendre.daisy@epa.gov>; bshipp@wvalisllc.com; 'Wayne H. Valis' <wvalis@wvalisllc.com>
Subject: Invitation to Meet with the Leaders of the Trade Association Liaison Council, Manufacturing Action Council, and Regulatory Improvement Council

Dear Mr. Wehrum,

A belated congratulations on your appointment at the EPA. On Wednesday, the American business leaders of the Trade Association Liaison Council, Manufacturing Action Council, and Regulatory Improvement Council (please see enclosed membership lists and mission statements), met with your esteemed colleagues Samantha Dravis and Brittany Bolen, who after our successful session, immediately suggested that these groups have a similar roundtable with you and your staff in the Air Office. You should know we also had a very successful meeting with Administrator Pruitt in November.

These organizations represent a significant portion of the US economy. For over 30 years they have worked with every EPA Administrator since Anne Gorsuch Burford. Frankly the last 8 years were very difficult, as President Obama's ever expanding regulatory state caused significant economic damage to America's businesses. We are ecstatic about the direction that President Trump, Administrator Pruitt, and you are setting as environmental leaders.

Therefore, the leaders of the TALC, MAC, and RIC respectfully request a 40 minute meeting with you where the trade association leaders could share their particular industries' regulatory concerns with you, and where you could share the Wehrum-eye-view of where and how the EPA's Air Office regulatory landscape will continue to change in 2018 and beyond. I believe a roundtable discussion with these leaders would be mutually beneficial to you, the trade associations, and to President Trump's regulatory agenda. Our groups have proven themselves in the past to be able advocates on Capitol Hill for previous Republican Administrations. TALC was created early in the Reagan Administration to help with outreach between President Reagan and the business community. The RIC was created soon after to focus on sound regulatory policy, while the MAC came about during the 2000's to focus on helping American manufacturing companies.

We are looking to schedule this meeting during early April, some proposed dates are: Tuesday, April 3rd; Wednesday April 4th; Friday, April 6th; Monday, April 9th; Tuesday, April 10th; and Thursday, April 12th. If none of the dates work on your end, please send me a few in later April that work for you, and we can find a time mutually convenient.

We are so pleased that you and Administrator Pruitt are reversing overregulation, and that you are so active traveling and working with the grassroots. You are proving that environmental protection and economic growth are not contradictory, they are complimentary.

Thanks again Bill, and we look forward to hearing positively from you.

Best regards,

Wayne Valis

Wayne H. Valis

President

Valis Associates, LLC

1101 17th St., NW, Suite 608

Washington, DC 20036

202-393-5055

wvalis@wvalisllc.com

The Regulatory Improvement Council Organized By Valis Associates, LLC

Valis Associates, LLC 1101 17th Street, NW Washington, DC 20036 202.393.5055

2018 Membership:

| | |
|---|---|
| American Cleaning Institute | National Association of Manufacturers |
| American Coatings Association | National Cotton Council |
| American Forest and Paper Association | National Stone, Sand and Gravel Association |
| Association of American Railroads | North American Millers Association |
| American Trucking Associations | Personal Care Products Council |
| Capital Alpha Partners, LLC | Phillips 66 |
| Color Pigments Manufacturers Association | Precision Metalforming Association |
| Commodity Markets Council | Recreation Vehicle Industry Association |
| Construction Industry Roundtable | Renewable Fuels Association |
| Edison Electric Institute | Textile Rental Services Association |
| International Fragrance Association-North America | Toyota - North America |
| Kimberly Consulting, representing Kimberly-Clark | US Apple Association |
| Kitchen Cabinet Manufacturers Association | US Mortgage Insurers Association |
| National Asphalt Pavement Association | Vinyl Institute |

Mission Statement – The Regulatory Improvement Council members endorse the following:

I. Regulation: Environmental, health and safety regulations have led to dramatic improvements in the environment and have significantly reduced human health risk; however, many of the Federal regulations that have led to these improvements have been more costly and less effective than they could have been; too often regulatory priorities have not been based upon a realistic consideration of risk, risk reduction opportunities, and costs.

The public and private resources available to address health, safety, and environmental concerns are not unlimited; those resources need to be allocated to address the greatest needs in the most cost-effective manner so that the incremental costs of regulatory options are reasonably related to be incremental benefits.

To provide more cost-effective and cost-reasonable protection to human health and the environment, regulatory priorities should be based upon realistic consideration of risk; the priority-setting process must include scientifically sound, objective, and unbiased risk assessments, comparative risk analysis, and risk management choices that are grounded in cost-benefit principles.

Risk assessment has proven to be a useful decision making tool; however, improvements are needed in both the quality of assessments and the characterization and communication of findings; scientific and other data must be better collected, organized, and evaluated; most importantly, the critical information resulting from a risk assessment must be effectively communicated in an objective and unbiased manner to decision makers, and from decision makers to the public.

The public stakeholders must be fully involved in the risk decision-making process. They have the right to know about the risks addressed by regulation, the amount of risk to be reduced, the quality of the science used to support decisions, and the cost of implementing and complying with regulations. This knowledge will allow for public scrutiny and promote quality, integrity, and responsiveness of agency decisions.

II: Intellectual Property Protection: Successful innovation promotes technologies and products that fuel economic development and improve the worldwide human condition. Without strong protection and enforcement of intellectual property, much of private investment initiative, research and human invention would be stolen and evaporate. Multinational business and research-intensive industry in particular, depend upon the assurance and predictability of intellectual property protection. The regulatory regime and legal system must defend intellectual property as the cornerstone of creativity, development, and scientific advance. IP protected innovation is the crown jewel of the American economic system.

III. Financial Services Regulation: The recent financial crisis has reminded us that appropriate financial services regulations are necessary to curb systemic risk and for the orderly functioning of the financial markets and the economy. However, now that we are in a global climate that encourages stricter financial regulation, it is imperative to ensure that extreme, onerous and burdensome rules are not implemented on market participants.

It is crucial for policymakers and regulators to understand that regulations imposed on financial markets have immediate and powerful impacts on the economy. It must be the goal of the regulatory community to preserve open and competitive financial markets. In an era of increasing international competition, America risks being left behind if our financial markets are strangled by overregulation. RIC believes there must be greater emphasis on cost-benefit analyses before financial services rulemakings are promulgated by the regulatory agencies or the legislative branch.

To be clear, the Regulatory Improvement Council is not opposed to regulation. We believe that appropriate governmental oversight has a justified and valid place in society, including of course and importantly, the financial marketplace. We strive to educate policymakers and regulators about the adverse socioeconomic consequences of rules that stifle capital formation, restrict job creation, slow economic growth, and diminish America's leading place on the rostrum of nations in this world.

The Manufacturing Action Council (MAC)

Mission Statement: MAC's goal is to increase awareness by policy-makers of the critical role that manufacturing plays in the U.S. economy. MAC will foster public policy that supports a robust and growing domestic manufacturing sector. MAC arranges individual meetings between industry trade association executives and Members of Congress, Administration officials, opinion leaders and others. MAC membership is open to trade association executives representing manufacturing industries.

Wayne H. Valis MAC Founder & Executive Director Valis Associates, LLC wvalis@wvalisllc.com 202.393.5055

2018 Membership List:

| | |
|---|-------------------|
| Adhesive and Sealant Council | Matthew Croson |
| Alliance of Automobile Manufacturers | Mitch Bainwol |
| Aluminum Association | Heidi Brock |
| American Cleaning Institute | Melissa Hockstad |
| American Coatings Association | Andy Doyle |
| American Composites Manufacturers Association | Tom Dobbins |
| American Forest and Paper Association | Donna Harman |
| American Iron and Steel Institute | Tom Gibson |
| Association of Equipment Manufacturers | Nick Yaksich |
| Color Pigments Manufacturers Association | David Wawer |
| Institute of Scrap Recycling Industries | Robin Wiener |
| International Fragrance Association - North America | Farah K. Ahmed |
| International Safety Equipment Association | Charles Johnson |
| International Sign Association | Lori Anderson |
| Kitchen Cabinet Manufacturers Association | Betsy Natz |
| Manufacturers Alliance/MAPI | Stephen Gold |
| National Electrical Manufacturers Association | Kevin J. Cosgriff |
| National Oilseed Processors Association | Tom Hammer |
| National Pavement Association | Jay Hansen |
| Plastics Industry Association | Bill Carteaux |
| Recreation Vehicle Industry Association | Jay Hansen |
| Society of Chemical Manufacturers and Affiliates | Jennifer Abril |
| Textile Rental Services Association of America | Kevin Schwalb |
| Vinyl Association | Dick Doyle |

The Trade Association Liaison Council (TALC)

Mission Statement: The Trade Association Liaison Council (TALC) was created in 1981 as the bi-partisan coalition arm of President Reagan. For over 30 years, TALC members have worked with Members of Congress and Administration officials to promote U.S. job growth, cost-effective and reasonable federal regulations, fair and free international trade policy, a broad based federal tax policy and a strong American economy. Members are CEOs, Presidents and leaders of trade associations and companies.

Wayne H. Valis TALC Founder & Executive Director Valis Associates, LLC

Aluminum Association, Inc.
 American Beverage Association
 American Coatings Association
 American Composites Manufacturers Assn.
 American Council of Engineering Companies
 American Gas Association
 American Iron and Steel Institute
 American Land Title Association
 Associated General Contractors of America
 Association of American Railroads
 Association of Home Appliance Manufacturers
 Commodity Markets Council
 Construction Industry Round Table
 Corn Refiners Association
 Credit Union National Association
 Edison Electric Institute
 The Fertilizer Institute
 Fuel Cell Hydrogen and Energy Association
 Independent Bakers Association

Heidi Brock
 Susan Neely
 Andy Doyle
 Tom Dobbins
 David Raymond
 Rick Shelby
 Thomas Gibson
 Michelle Korsmo
 Steve Sandherr
 Ed Hamberger
 Joe McGuire
 Gregg Doud
 Mark Casso, Esq.
 John Bode
 Jim Nussle
 Tom Kuhn
 Chris Jahn
 Morry Markowitz
 Nicholas Pyle

International Association of Plumbing and Mechanical Officials
 International Dairy Foods Association
 International Fragrance Association - North America
 International Safety Equipment Association
 International Sign Association
 International Wood Products Association
 National Asphalt Pavement Association
 National Association of Manufacturers
 National Association of Chain Drug Stores
 National Automobile Dealers Association
 National Council of Farmer Cooperatives
 National Electrical Manufacturers Association
 National Marine Manufacturers Association
 National Stone, Sand & Gravel Association
 Plastics Industry Association
 Recreational Vehicle Industry Association
 Real Estate Services Providers Council
 Renewable Fuels Association
 Textile Rental Services Association
 Toyota North America
 Vinyl Institute

Dain Hansen
 Michael Dykes
 Farah Ahmed
 Charles Johnson
 Lori Anderson
 Cindy Squires
 Jay Hansen
 Jay Timmons
 Steve Anderson
 Peter Welch
 Chuck Conner
 Kevin Cosgriff
 Nicole Vasilaros
 Michael Johnson
 Bill Carteaux
 Jay Landers
 Ken Trepeta
 Bob Dinneen
 Kevin Schwalb
 Mark Johnson
 Dick Doyle

The Trade Association Liaison Council (TALC)

Mission Statement: The Trade Association Liaison Council (TALC) was created in 1981 as the bi-partisan coalition arm of President Reagan. For over 30 years, TALC members have worked with Members of Congress and Administration officials to promote U.S. job growth, cost-effective and reasonable federal regulations, fair and free international trade policy, a broad based federal tax policy and a strong American economy. Members are CEOs, Presidents and leaders of trade associations and companies.

Wayne H. Valis TALC Founder & Executive Director Valis Associates, LLC

Message

From: Minoli, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C9C0070D651A4625AC20258369F9B050-KMINOLI]
Sent: 9/30/2018 2:59:50 AM
To: Cozad, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4a30a28be6a74d3da779bb7f7b34a876-COZAD, DAVID]; Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]; Clarke, Victoria [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Clarke, Victoria]
CC: Packard, Elise [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6d4ad4c6abb24f54a2c8c16fa17ba0fd-Packard, El]
Subject: FW: Copy of Letter to Senator Whitehouse
Attachments: Whitehouse Wehrum Recusal.Signed.pdf; OGE Memo on Pledge and Speeches.DO-09-020.pdf

All- FYI, here is my email sharing the letter to Sen Whitehouse with Bill and providing him with the OGE memo on speeches. Thanks, Kevin

Kevin S. Minoli

Principal Deputy General Counsel
 & Designated Agency Ethics Official
 Office of General Counsel
 US Environmental Protection Agency
 Main Office Line: 202-564-8064

From: Minoli, Kevin
Sent: Saturday, September 29, 2018 10:57 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>
Subject: Copy of Letter to Senator Whitehouse

Bill- As I prepared to complete my federal service on September 30, 2018, it was important to me that I respond to any outstanding letters addressed to me from Members of Congress. Attached please find a copy of my response to Senator Whitehouse related to two letters from him that address your compliance with the federal ethics rules and the Trump Ethics Pledge. The response notes our engagement with you and your staff throughout your current EPA tenure, the recusal statement you signed on Sept 17, 2018, and your Sept 27, 2018, update to your Certification of Ethics Agreement Compliance. I sent the signed version to OCIR for processing earlier this evening and wanted to provide you a copy before they transmitted it.

Deliberative Process / Ex. 5

I also wanted to provide you with a copy of an OGE Memo that explains how the Pledge applies to official speeches and presentations at a former employer or client. This memo gives an appointee some additional ability to make such speeches and presentations, but also establishes an absolute prohibition on such speeches or presentations when the event would have a "demonstrable financial effect on the former employer or client." The memo states that there is a demonstrable financial effect when an "admission fee is charged, the event is

a fundraiser, or the event is some kind of business development activity (such as a seminar for current or prospective clients).” Importantly, there is no exception from this prohibition for events where the presentation is open to all interested parties or attended by parties with a variety of viewpoints; rather, the OGE memo states that in order to speak, a waiver from the White House is required. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

It was nice to work with you again after a number of years and I hope you enjoy the rest of your second tour at EPA. My resignation is effective tomorrow (Sept 30th), but the Acting Administrator and Matt will be sharing information on the next DAEO imminently.

Thanks, Kevin

Kevin S. Minoli

Principal Deputy General Counsel
& Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8064

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

SEP 29 2018

The Honorable Sheldon Whitehouse
United States Senate
Washington, D.C. 20510

Dear Senator Whitehouse:

On behalf of the U.S. Environmental Protection Agency (EPA), I am writing in response to your letters of April 25, 2018 and September 4, 2018, in which you sought information regarding the recusal statement of EPA's Assistant Administrator for Air and Radiation, William L. Wehrum.

I want to assure you that EPA has taken diligent steps to ensure that Mr. Wehrum has been advised of his ethics obligations. Following Mr. Wehrum's initial ethics training on November 14, 2017, my staff in the Ethics Law Office in the Office of General Counsel (OGC/Ethics) and I have met with Mr. Wehrum in person, communicated with him via email correspondence and the telephone, and coordinated with his staff about his ethics obligations. As part of these discussions and consistent with our responsibilities found at 5 C.F.R. §§ 2638.305(f)(2) and (3), OGC/Ethics explained his recusal obligations, the importance of a recusal statement, and the other commitments contained in Mr. Wehrum's ethics agreement. OGC/Ethics also counseled Mr. Wehrum about his ethics obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge, which he signed on November 14, 2017. Our counsel included guidance on paragraph 6 of the Pledge, which states that he cannot "participate in any particular matter involving specific parties that is directly and substantially related to [his] former employer or former clients, including regulations and contracts." We have provided him with advice consistent with that offered by the Office of Government Ethics (OGE), including OGE Advisories DO-09-011 (3/26/09) and DO-09-020 (5/26/09), which apply to Exec. Order 13770 pursuant to OGE Legal Advisories LA-17-02 & LA-17-03 (3/20/17).

Since he re-joined EPA, OGC/Ethics has worked with Mr. Wehrum and his staff on a written recusal statement. In my role as the Designated Agency Ethics Official, I personally communicated with Mr. Wehrum about the importance of signing a recusal statement. Mr. Wehrum initially chose to use other tools that he deemed effective in helping him comply with the ethics requirements, such as use of a screening official. OGC/Ethics continued to work with him and his staff and recently Mr. Wehrum completed and signed the enclosed recusal statement. His statement formally memorializes Mr. Wehrum's understanding of his obligation to recuse himself from certain matters involving his former employer or former clients.

To date, Mr. Wehrum has not received any waivers or authorizations issued pursuant to Executive Order 13770, 18 U.S.C. § 207(b)(1), or 5 C.F.R. § 2635.502(d). As described in his

recusal statement, for meetings or invitations involving his former employer or former clients, Mr. Wehrum's staff coordinates with OGC/Ethics, particularly when paragraph 6 of the Ethics Pledge might be implicated. When OGC/Ethics is consulted by Mr. Wehrum or his staff on meetings involving his former employer or former clients, we provide appropriate counsel and case-specific advice based on the subject matter of the meeting, the attendees, the location, the purpose, the capacity under which the individuals or entities are present, and any other relevant information.

Mr. Wehrum filed a Certification of Ethics Agreement Compliance with the OGE dated December 7, 2017. Originally, he answered "no" in response to the form's query on recusals related to financial conflicts of interest. He made a clarifying edit to the form on December 19, 2017, changing his response from "no" to "N/A." Enclosed is a further-updated version of that form that includes a comment Mr. Wehrum added on September 27, 2018, explaining that at the time he signed the form he did not have any financial conflicts of interest from which to recuse, so he did not believe that answering "no" was sufficient to explain his situation. Because he has no existing financial conflicts, nor does he expect to have any in the future, he explains that his answer meant that this question does not apply to his individual situation. My staff provided the recently-updated form to OGE.

With respect to the documents that you requested, EPA has a centralized search currently underway that it expects to yield documents responsive to your request. The agency anticipates releasing those documents to you on a rolling basis, as they become available.

Finally, I have resigned from EPA and my role as the Designated Agency Ethics Official, effective September 30, 2018, to pursue a career transition to the private sector. If I can be of assistance after that date, however, you may contact me through the agency's Office of Congressional and Intergovernmental Affairs. I appreciate your sustained interest in, and support of, a strong ethics program at EPA. If you have further questions for EPA, please contact Kristien Knapp in the Office of Congressional and Intergovernmental Relations at (202) 564-3277 or Knapp.Kristien@epa.gov.

Sincerely,



Kevin S. Minoli
Designated Agency Ethics Official &
Principal Deputy General Counsel

Enclosures

cc: The Honorable John Barrasso
Chairman, Senate Environment and Public Works Committee

Message

From: Minoli, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C9C0070D651A4625AC20258369F9B050-KMINOLI]
Sent: 9/28/2018 7:03:45 AM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
CC: Packard, Elise [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6d4ad4c6abb24f54a2c8c16fa17ba0fd-Packard, El]; Cozad, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4a30a28be6a74d3da779bb7f7b34a876-COZAD, DAVID]; Monson, Mahri [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fe16c321270a466c90286d60e81b292c-Mmonson]
Subject: Comments on Sen Whitehouse Letter
Attachments: image2018-09-28-001759.pdf

Attached are hand written notes on the Whitehouse letter. Some are probably hard to decipher, so I will be available later today to translate.

Deliberative Process / Ex. 5

Thanks, Kevin

Kevin S. Minoli

Principal Deputy General Counsel
& Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8064

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 1/10/2018 6:02:39 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
CC: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beaddda2affa44-Harlow, Dav]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clin]
Subject: Ethics Question
Attachments: CA CPP Rescission Comments.pdf

Justina – Attached are comments submitted by a coalition of states and locals on the proposed CPP rescission. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Thanks for your help.

States of California, Delaware, Hawaii, Illinois, Maine, Maryland, New Mexico, New York, Oregon, Vermont, and Washington, the Commonwealth of Massachusetts, the District of Columbia, the County of Broward (Florida), and the Cities of Boulder (Colorado), Chicago (Illinois), New York (New York), Philadelphia (Pennsylvania), and South Miami (Florida)

January 9, 2018

Via express mail and submission to Regulations.gov

U.S. Environmental Protection Agency

EPA Docket Center

WJC West Building, Room 3334

1301 Constitution Avenue, NW

Washington, DC 20004

**Attention: Docket ID No. EPA-HQ-OAR-2017-0355
Repeal of Carbon Pollution Emission Guidelines for Existing Stationary
Sources: Electric Utility Generating Units**

**RE: Comments on EPA Administrator Scott Pruitt's Improper Prejudgment of
Outcome of Proposed Repeal of Clean Power Plan**

The states of California, Delaware, Hawaii, Illinois, Maine, Maryland, New Mexico, New York, Oregon, Vermont, and Washington, the Commonwealth of Massachusetts, the District of Columbia, the County of Broward (Florida), and the Cities of Boulder (Colorado), Chicago (Illinois), New York (New York), Philadelphia (Pennsylvania), and South Miami (Florida) ("States and Local Governments") respectfully submit these initial comments on the Environmental Protection Agency's ("EPA") proposed repeal of the Clean Power Plan ("CPP").¹ This letter specifically focuses on the lack of due process and fairness resulting from Administrator Scott Pruitt's prejudgment of the outcome of this rulemaking and the procedural failure of EPA to disqualify Administrator Pruitt from all aspects of this rulemaking given his closed mind.² A new presidential administration may seek to implement different policy preferences through changes in existing regulations. But to maintain the integrity of the rulemaking process, any such changes must be made while adhering to standards intended to ensure that rulemaking processes are fair and rational. Because EPA's CPP repeal rulemaking process violates these standards, EPA must withdraw the proposed repeal.

Administrator Pruitt decided years ago that the CPP is unlawful and must be eliminated. As Oklahoma Attorney General, he attacked the CPP with detailed legal and factual criticisms. He ceaselessly worked through courts, legislatures, and the media to stop EPA from promulgating and implementing that rule, and he made himself into a prominent leader of the

¹ Repeal of Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, 82 Fed. Reg. 48,035 (Oct. 16, 2017).

² The States and Local Governments will separately submit comments on the other infirmities of the proposed CPP repeal.

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effort to overturn it. Even after 5:40 p.m. on February 17, 2017, the moment when he was sworn in as Administrator and transformed from EPA's rival to its leader, Administrator Pruitt's legal and media campaign against the CPP continued unabated. EPA's proposed CPP repeal would achieve through rulemaking what he failed to achieve through litigation. And it would adopt the specific interpretation of the Clean Air Act, previously rejected by EPA, that Administrator Pruitt has long advanced to restrict EPA's ability to control power plant emissions. On both this interpretation and the legality of the CPP in general, Administrator Pruitt's mind is closed.

The public's constitutional and statutory rights to due process and fairness in an administrative rulemaking proceeding are violated when an agency decision maker acts with an unalterably closed mind and prejudices the outcome of what is supposed to be an unbiased process. Under such circumstances, that agency decision maker must be disqualified from participating in the rulemaking, or else any resulting administrative action will be invalid. Administrator Pruitt has a closed mind on the questions of whether the CPP should be repealed, whether the CPP is unlawful, and whether Clean Air Act section 111(d) (42 U.S.C. § 7411(d)) guidelines must be based only on controls imposed directly at the regulated sources (here, power plants). His predetermination of the answers to these questions renders him unable to fairly evaluate the existing EPA scientific and legal record and the comments being submitted by the public, all of which are essential components of a fair rulemaking process evaluating the merits of the CPP. His involvement in this rulemaking has irreparably tainted the current administrative process, and as a result, EPA must withdraw the proposed CPP repeal.

The substantive merits of Administrator Pruitt's firmly held views on the illegality of the CPP are not relevant to whether he may participate in a rulemaking that eliminates the CPP. Rather, it is the fact that he has prejudged the legality of the CPP that makes him ineligible to participate. EPA's failure to disqualify him means that any resulting rule will be invalid as a failure of due process, fairness, and the rule of law and as an arbitrary and capricious agency action. It is true that a violation of due process and fairness does not occur whenever a new agency decision maker, after an election, prefers a different outcome based on his alternative political philosophy, understanding of scientific principles, or favored constituency. But Administrator Pruitt's planned repeal of the CPP is the paradigm of the type of prejudging prohibited in the administrative rulemaking system. A private citizen (or even a state attorney general) has the luxury of making up his mind and never changing course. The decision maker in an administrative proceeding, however, does not.

Furthermore, EPA officials, including Administrator Pruitt himself, have abused their discretion in failing to recognize that he lacks the appearance of impartiality federal ethics regulations require of an agency decision maker and in failing to ensure that he is disqualified from participating in the CPP repeal.

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I. ADMINISTRATOR PRUITT MUST BE DISQUALIFIED FROM THE CLEAN POWER PLAN REPEAL ADMINISTRATIVE PROCEEDING BECAUSE HE HAS PREJUDGED ITS OUTCOME

A. Legal standard for impermissible prejudgment in administrative rulemaking

Those interested in a rulemaking “have a right to a fair and open proceeding; that right includes access to an impartial decisionmaker.” *Ass’n of Nat’l Advertisers, Inc. v. FTC*, 627 F.2d 1151, 1174 (D.C. Cir. 1979). A government decision maker has impermissibly prejudged the factual or legal issues in an administrative process if he has an unalterably closed mind on issues central to the proceeding. *Lead Indus. Ass’n v. EPA*, 647 F.2d 1130, 1180 (D.C. Cir. 1980); *C & W Fish Co. v. Fox, Jr.*, 931 F.2d 1556, 1564 (D.C. Cir. 1991). A rulemaking with a predetermined outcome makes a farce out of statutorily mandated notice-and-comment procedures, whose purpose is “to give interested parties the opportunity to participate in rulemaking and to ensure that the agency has before it all relevant information.” *Natural Res. Def. Council v. EPA*, 643 F.3d 311, 321 (D.C. Cir. 2011).

Unless the decision maker with the closed mind is recused from participating, the agency violates due process by conducting the rulemaking. *See Ass’n of Nat’l Advertisers, Inc. v. FTC*, 627 F.2d at 1170, 1174. A final agency action resulting from an unfair proceeding or undertaken in violation of due process is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law” and “contrary to constitutional right, power, privilege, or immunity,” and thus is invalid under both the Clean Air Act, 42 U.S.C. § 7607(d)(9)(A), (B), and the Administrative Procedure Act, 5 U.S.C. § 706(2)(A), (B). *See Nehemiah Corp. of Am. v. Jackson*, 546 F. Supp. 2d 830, 847 (E.D. Cal. 2008) (disqualifying cabinet secretary from a rulemaking where he reportedly said that he “would approve the new rule even in the face of critical comments”); *Int’l Snowmobile Mfrs. Ass’n v. Norton*, 340 F. Supp. 2d 1249, 1261 (D. Wyo. 2004) (finding agency prejudged outcome to ban snowmobile access to national parks where agency memorandum showed “sweeping condemnation” of such access and where official stated at press conference that “there will be, no future” for such vehicles in national parks); *cf. Lead Industries Ass’n*, 647 at 1179 (rejecting claim that EPA assistant administrator prejudged setting of emission standards but stating “a different question may be presented if it can be shown that an agency decision maker has exhibited the type of single-minded commitment to a particular position that makes him or her totally incapable of giving fair consideration to the issues that are presented for decision”).

B. Evidence of Administrator Pruitt’s impermissible prejudging of the CPP repeal

1. Administrator Pruitt has a closed mind on whether the CPP is legal

Administrator Pruitt is attempting to use the rulemaking process to fulfill a public promise—elimination of the CPP—that he has made continuously, for years, and that forms the foundation on which he constructed his public persona. While serving as Oklahoma Attorney General, Mr. Pruitt consistently told the courts, Congress, his constituents, his donors, and the media that the CPP was “wholly unlawful,” “blatantly unlawful,” “bogus,” “ultra vires,” “a

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political power grab,” “invalid,” an improper “intrusion into state sovereignty,” and “antithetical to the Constitution.” It is not possible for him to reverse course now and impartially evaluate the CPP, nor has he shown any inclination to try to do so. As the mountain of self-promoting public proclamations, social media posts, interviews, and speeches cited herein demonstrates, Mr. Pruitt was not merely an attorney who represented the interests of his client in a prior job; instead, he is an individual who holds, and has unabashedly broadcast, a deep and unwavering conviction that the CPP is unlawful and must be eliminated.

When EPA proposed the CPP in the summer of 2014, Mr. Pruitt joined a petition for review asking the D.C. Circuit Court to stop the public comment period and prevent the agency from finalizing the rule.³ He explained that he would continue to sue EPA whenever it “takes actions that undermine our system and the rule of law.”⁴ Three weeks later he demanded that EPA withdraw the proposed CPP, claiming that it could not even be re-proposed because it was “wholly unlawful.”⁵ The comment letter he signed on behalf of other state attorneys general criticizing the proposed rule included a laundry list of grounds on which they asserted it was illegal, describing it as unauthorized by the Clean Air Act and “antithetical to the Constitution.”⁶ In the following days, he used social media to direct the public to articles portraying the CPP as illegal and himself as the one “leading opposition” to it.⁷ He penned an article on *The Hill* website stating that the CPP would “raise the cost of energy dramatically,” would most hurt “the poor, the single mothers, the elderly and minorities,” and would be “a direct violation of states’ traditional role in making their individual energy policies.” Because “the EPA does not have legal authority granted under the Clean Air Act” to implement the CPP, he argued that the “proposed rule should be withdrawn, or at least stayed, until the courts have a chance to weigh in on legal challenges against these regulations.”⁸

While EPA was evaluating public comments on the proposed CPP, Mr. Pruitt was lobbying the Oklahoma legislature to pass a bill that would give him the authority to prevent Oklahoma from submitting a state implementation plan to meet the rule’s guidelines. As passed by the legislature, Oklahoma Senate Bill 676 (2015-2016) required the Oklahoma Department of Environmental Quality first to submit any state implementation plan to the Attorney General and

³ Exhibit A15 (enclosed) (“Ex. A15”): Petition for Review, *West Virginia v. EPA*, No. 14-1146 (D.C. Cir. Aug. 1, 2014).

⁴ Ex. A16: Scott Pruitt, Facebook (Aug. 7, 2014), <https://www.facebook.com/ScottPruitt/posts/10152240553116643>.

⁵ Ex. A17: Letter from state attorneys general to Gina McCarthy, EPA Administrator, re: Request for Withdrawal (Aug. 25, 2014), at 3, <https://www.regulations.gov/contentStreamer?documentId=EPA-HQ-OAR-2013-0602-14062&attachmentNumber=1&contentType=pdf>.

⁶ Ex. A19: Letter from Scott Pruitt, Oklahoma Attorney General, to EPA Docket (Nov. 24, 2014), <https://www.regulations.gov/document?D=EPA-HQ-OAR-2013-0602-25433>.

⁷ Ex. A18: Scott Pruitt, Facebook (Nov. 26, 2014), <https://www.facebook.com/ScottPruitt/posts/10152458863591643>;

Ex. A20: Scott Pruitt, Facebook (Dec. 1, 2014), <https://www.facebook.com/ScottPruitt/posts/10152467765126643>;

Ex. A21: Scott Pruitt, Facebook (Dec. 2, 2014), <https://www.facebook.com/ScottPruitt/posts/10152469582211643>;

Ex. A23: Scott Pruitt, Facebook (Dec. 20, 2014), <https://www.facebook.com/ScottPruitt/posts/10152504896201643>.

⁸ Ex. C3: Press Release, Oklahoma Attorney General, The Hill: EPA’S clean power plan is wrong for states (Dec. 16, 2014), https://www.ok.gov/triton/modules/newsroom/newsroom_article.php?id=258&article_id=15058 (republishing Scott Pruitt & Jonathan Small, *EPA’S clean power plan is wrong for states*, The Hill, Dec. 16, 2014, <http://thehill.com/blogs/congress-blog/energy-environment/227176-epas-clean-power-plan-is-wrong-for-states>);

Ex. A22: Oklahoma Attorney General E. Scott Pruitt, Facebook (Dec. 16, 2014), <https://web.archive-it.org/2083/20150514181339/https://www.facebook.com/AttorneyGeneralPruitt?fref=nf>.

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obtain his approval before submitting the plan to EPA.⁹ If the Attorney General determined that the state's plan did not comply with the Clean Air Act—which Mr. Pruitt had already said would be the case because the CPP itself was illegal—then Oklahoma would be unable to submit a CPP state implementation plan at all, regardless of the judgment of the Oklahoma Department of Environmental Quality. While the bill was being considered in the legislature, Mr. Pruitt told the public through the press and social media that EPA lacked authority for the “unlawful” CPP and that SB 676 was “a bulwark against the overreach of the EPA” and was necessary to defend Oklahoma “against the unlawful actions of the EPA” in the form of the CPP.¹⁰ When SB 676—giving Mr. Pruitt himself power to prevent Oklahoma from implementing the CPP—passed both houses in April 2015, he issued a press release praising it as “sending a clear signal that we will not comply with the EPA’s unlawful Clean Power Plan.”¹¹ Although Mr. Pruitt said he was disappointed that the Governor subsequently vetoed the bill,¹² he announced that he was headed to Washington, D.C., that day to further attack the CPP.¹³

Mr. Pruitt previewed his May 5, 2015, U.S. Senate testimony on “Legal Implications of the Clean Power Plan” as an update on his efforts to “fight this egregious example of overreach” and as a “direct rebuttal” of EPA’s claims about the CPP.¹⁴ He issued multiple reminders to draw attention to his appearance, both before and after the event.¹⁵ He testified to the Senate committee that “Quite simply . . . , the EPA does not possess the authority under the Clean Air

⁹ Ex. A34: S.B. 676, § 2.C., 2015-2016 Sess., (Okla. Apr. 24, 2015) (enrolled), http://webserver1.lsb.state.ok.us/2015-16bills/SB/SB676_ENR.RTF.

¹⁰ Ex. A25: Scott Pruitt, Facebook (Apr. 1, 2015), <https://www.facebook.com/ScottPruitt/posts/10152727510976643>; Ex. C5: Jim Inhofe & Scott Pruitt, *Senate Bill 676 protects Oklahoma businesses, families from EPA’s overreach*, Tulsa World, April 1, 2015, http://www.tulsaworld.com/opinion/readersforum/u-s-sen-jim-ihofe-and-oklahoma-attorney-general-scott/article_3ab87bba-6f7e-579f-aa41-624caa84b63b.html; Ex. A26: Scott Pruitt, Facebook (Apr. 2, 2015), <https://www.facebook.com/ScottPruitt/posts/10152730124186643> (linking to Ex. C4: Opinions & Editorials, Senator James M. Inhofe (Apr. 2, 2015), <https://www.ihofe.senate.gov/newsroom/oped/tulsa-world-us-sen-jim-ihofe-and-oklahoma-attorney-general-scott-pruitt-senate-bill-676-protects-oklahoma-businesses-families-from-epas-overreach>); Ex. A27: Scott Pruitt (@ScottPruittOK), Twitter, (Apr 9, 2015, 12:55 PM), <https://twitter.com/ScottPruittOK/status/586256082022051840>; Ex. A30: Scott Pruitt, Facebook (Apr. 22, 2015), <https://www.facebook.com/ScottPruitt/posts/10152773679326643>; Ex. A31: Press Release, Oklahoma Attorney General, AG Pruitt Comments on House Passage of Bill to Protect State from EPA Overreach (Apr. 23, 2015), https://www.ok.gov/triton/modules/newsroom/newsroom_article.php?id=258&article_id=15757; Ex. A32: Scott Pruitt, Facebook (Apr. 24, 2015), <https://www.facebook.com/ScottPruitt/posts/10152777810186643>.

¹¹ Ex. A33: Press Release, Oklahoma Attorney General, AG Pruitt Commends Oklahoma Senate for Final Passage of Bill Protecting State from EPA (Apr. 28, 2015), https://www.ok.gov/triton/modules/newsroom/newsroom_article.php?id=258&article_id=15769.

¹² Ex. A36: Scott Pruitt, Facebook (May 4, 2015), <https://www.facebook.com/ScottPruitt/posts/10152798834511643>.

¹³ Ex. A35: Scott Pruitt, Facebook (Apr. 30, 2015), <https://www.facebook.com/ScottPruitt/posts/10152799441126643>; Ex. A37: Scott Pruitt, Facebook (May 4, 2015), <https://www.facebook.com/ScottPruitt/posts/10152799432116643>.

¹⁴ Ex. A39: From the Desk of Scott Pruitt (Oklahoma Attorney General’s Office), May 4, 2015, <http://www.digitalprairie.ok.gov/cdm/compoundobject/collection/stgovpub/id/468015/rec/14>.

¹⁵ Ex. A41: Scott Pruitt (@ScottPruittOK), Twitter (May 5, 2015, 6:45 AM), <https://twitter.com/ScottPruittOK/status/595584985609981953>; Ex. A40: Scott Pruitt, Facebook (May 5, 2015), <https://www.facebook.com/ScottPruitt/posts/10152799433896643>; Ex. A42: Scott Pruitt (@ScottPruittOK), Twitter (May 5, 2015, 7:18 AM), <https://twitter.com/ScottPruittOK/status/595593451766292480>; Ex. A44: Oklahoma Attorney General E. Scott Pruitt, Facebook (May 5, 2015), <https://wayback.archive-it.org/2083/20150514182234/https://www.facebook.com/AttorneyGeneralPruitt/photos/a.205545152798766.52828.194730097213605/995800250439915/?type=1>; Ex. A45: Scott Pruitt (@ScottPruittOK), Twitter (May 5, 2015, 11:49 AM), <https://twitter.com/ScottPruittOK/status/595661651321425921>.

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Act to do what it is seeking to accomplish in the so-called Clean Power Plan,” and that Oklahoma was opposed to the CPP “because it is outside the authority granted to the EPA by the law.”¹⁶ Afterward, he continued to promote his testimony, explaining in his email newsletter that Oklahoma “continues to lead the charge against EPA overreach” and vowing to “continue to challenge the EPA’s unlawful rule that threatens energy affordability and reliability for consumers and industry.”¹⁷

In June 2015, the D.C. Circuit Court dismissed the lawsuits brought by Mr. Pruitt and others seeking to block EPA from even finalizing the CPP. *In re: Murray Energy Corp. v. EPA*, 788 F.3d 330 (D.C. Cir. 2015). Less than two months later, despite the unanimous ruling from the D.C. Circuit that the lawsuits challenging the CPP proposal were premature, Mr. Pruitt filed a similar lawsuit—this one in federal district court in Oklahoma—to again try to stop EPA from finalizing the rule. In the complaint and motion for preliminary injunction—both of which he signed himself and filed without any co-plaintiffs—Mr. Pruitt described the proposed CPP as “ultra vires,” based on “bogus authority,” “blatantly unlawful,” and “simply incompatible with the requirements of Section 111(d).” He told the court that the proposed CPP “plainly exceeds EPA’s authority under the Clean Air Act and . . . Constitution in at least five separate respects,” which he then detailed, and that “[t]he absurdity of EPA’s novel interpretation should not be overlooked.”¹⁸ He issued a press release announcing his lawsuit, describing the CPP as “an unlawful attempt to expand federal bureaucrats’ authority over states’ energy economies in order to shutter coal-fired power plants and eventually other sources of fossil-fuel generated electricity.”¹⁹ Days later he stated, “We must continue to push back against an agency that thinks they are above the law,” directing the public to an editorial praising his lawsuit.²⁰ When the district court quickly rejected his lawsuit, he filed an appeal, explaining in his newsletter that “I remain firm in believing the proposed plan” would “threaten the reliability and affordability of power in the state.”²¹

When EPA Administrator Gina McCarthy signed the final CPP on August 3, 2015, Mr. Pruitt immediately issued statements attacking the rule as unlawful, lacking in legal authority, and unconstitutional, again pledging that “My office will continue to challenge the EPA as long

¹⁶ Ex. A43: *Legal Implications of the Clean Power Plan: Hearing Before the S. Comm. on Environment & Public Works, Subcomm. on Clean Air & Nuclear Safety*, 114th Cong. (May 5, 2015) (written statement of E. Scott Pruitt, Attorney General, State of Oklahoma), https://www.epw.senate.gov/public/_cache/files/6/0/60e46f76-2eb8-4761-bd88-b89b31f7d0ad/01AFD79733D77F24A71FEF9DAFCCB056.agscottpruitt.pdf.

¹⁷ Ex. A46: Scott Pruitt (@ScottPruittOK), Twitter (May 6, 2015, 10:10 AM), <https://twitter.com/ScottPruittOK/status/595998972231208960>; Ex. A47: Scott Pruitt, Facebook (May 8, 2015), <https://www.facebook.com/ScottPruitt/posts/10152800692651643>; Ex. A48: From the Desk of Scott Pruitt (Oklahoma Attorney General’s Office), May 11, 2015, <http://www.digitalprairie.ok.gov/cdm/compoundobject/collection/stgovpub/id/468032/rec/15>.

¹⁸ Ex. A50: Complaint (ECF #2) at ¶¶ 1, 67, 69, *Oklahoma v. McCarthy*, No. 4:15-cv-00369 (N.D. Okla. July 1, 2015); Ex. A51: Brief in Support of Plaintiff’s Motion for Preliminary Injunction (ECF #6) at 1, 17, *Oklahoma v. McCarthy*, No. 4:15-cv-00369 (N.D. Okla. July 1, 2015).

¹⁹ Ex. A49: Press Release, Oklahoma Attorney General, AG Pruitt Sues EPA for Unlawful Clean Power Plan Rule (Jul. 1, 2015), https://www.ok.gov/triton/modules/newsroom/newsroom_article.php?id=258&article_id=16092.

²⁰ Ex. A52: Scott Pruitt, Facebook (July 7, 2015), <https://www.facebook.com/ScottPruitt/posts/10152938237326643>.

²¹ Ex. A55: From the Desk of Scott Pruitt (Oklahoma Attorney General’s Office), July 27, 2015, <http://www.digitalprairie.ok.gov/cdm/compoundobject/collection/stgovpub/id/468070/rec/25>; see also Ex. A54: Scott Pruitt, Facebook (July 25, 2015), <https://www.facebook.com/ScottPruitt/posts/10152978582101643>.

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as the administration continues to pursue this unlawful rule.”²² Two days later Oklahoma joined other states in an administrative petition to EPA to stay the CPP, again arguing for its illegality on various grounds,²³ and within two weeks these states had filed another premature challenge to the CPP in the D.C. Circuit.²⁴ Mr. Pruitt accompanied these actions by making personal appearances attacking the CPP and using his ongoing fight against EPA to advertise his reelection campaign website, ScottPruitt.com.²⁵

Challenges to the CPP finally became ripe when it was published in the Federal Register on October 23, 2015, and a group of state attorneys general and states filed a joint petition for review and a motion for emergency stay in the D.C. Circuit Court. But Mr. Pruitt was not among them. Instead, Oklahoma filed its own separate petition for review that same day and its own separate motion for a stay five days later.²⁶ His press release entitled “AG Pruitt Continues Fight against Unlawful Clean Power Plan” boasted that “Oklahoma was at the U.S. Court of Appeals D.C. Circuit as soon as the courthouse opened Friday morning to file its challenge to the unlawful rule.” Mr. Pruitt explained that “EPA has no authority under the Clean Air Act to achieve what it proposes in the 111(d) rule” and that he was “pursuing all available legal options to roll back this financially disastrous and unlawful EPA rule.”²⁷ Oklahoma’s stay motion argued that the Clean Air Act and the Constitution specifically deny EPA the authority it claimed in the CPP and that EPA’s actions under section 111(d) “fundamentally not only clash with the statutory text, but also impose unconstitutional burdens.”²⁸ Mr. Pruitt publicized his separate D.C. Circuit challenge—“As the EPA continues to push their unlawful rule, I continue to challenge it”—and urged supporters to “stand up against” the CPP just as he was.²⁹

²² Ex. A57: Press Release, Oklahoma Attorney General, AG Pruitt Says Final Clean Power Plan Still Unlawful (Aug. 3, 2015), https://www.ok.gov/triton/modules/newsroom/newsroom_article.php?id=258&article_id=16492; Ex. A56: Scott Pruitt, Facebook (Aug. 3, 2015), <https://www.facebook.com/ScottPruitt/posts/10152998451841643>; Ex. A58: Scott Pruitt, Facebook (Aug. 5, 2015), <https://www.facebook.com/ScottPruitt/posts/10153002012326643>.

²³ Ex. A59: Application for Administrative Stay by the State of West Virginia and 15 Other States (Aug. 8, 2015), <https://www.regulations.gov/document?D=EPA-HQ-OAR-2013-0602-37226>.

²⁴ Emergency Petition for Extraordinary Writ, *In re: West Virginia*, No. 15-1277 (D.C. Cir. Aug. 13, 2015). The court denied the petition four weeks later.

²⁵ Ex. A60: Scott Pruitt, Facebook (Aug. 7, 2015), <https://www.facebook.com/ScottPruitt/posts/10153012748781643>; Ex. A61: Scott Pruitt, Facebook (Aug. 7, 2015), <https://www.facebook.com/ScottPruitt/photos/a.411319536642.197181.365679946642/10153003542416643/?type=3>; Ex. A62: Scott Pruitt, Facebook (Aug. 13, 2015), <https://www.facebook.com/ScottPruitt/photos/a.411319536642.197181.365679946642/10153012005771643/?type=3>; Ex. A64: Scott Pruitt (@ScottPruittOK), Twitter (Aug 27, 2015, 12:23 PM), <https://twitter.com/ScottPruittOK/status/636982284982353920>; Ex. A65: Scott Pruitt, Facebook (Sept. 22, 2015), <https://www.facebook.com/ScottPruitt/photos/a.10151911192121643.1073741826.365679946642/10153115310701643/?type=3>.

²⁶ Petition for Review, *Oklahoma v. EPA*, No. 15-1364 (D.C. Cir. Oct. 23, 2015).

²⁷ Ex. A68: Press Release, Oklahoma Attorney General, AG Pruitt Continues Fight against Unlawful Clean Power Plan (Oct. 23, 2015), https://www.ok.gov/triton/modules/newsroom/newsroom_article.php?id=258&article_id=16869.

²⁸ Ex. A70: Petitioner Oklahoma’s Motion for Stay of EPA’s Existing Source Performance Standards for Electric Generating Units (ECF #1580577) at 7, *Oklahoma v. EPA*, No. 15-1364 (D.C. Cir. Oct. 28, 2015).

²⁹ Ex. A69: From the Desk of Scott Pruitt (Oklahoma Attorney General’s Office), Oct. 26, 2015, <http://www.digitalprairie.ok.gov/cdm/compoundobject/collection/stgovpub/id/484558/rec/36>; Ex. A66: Scott Pruitt, Facebook (Oct. 23, 2015), <https://www.facebook.com/ScottPruitt/posts/10153159627646643>; Ex. A67: Scott Pruitt (@ScottPruittOK), Twitter (Oct. 23, 2015, 3:08 PM), <https://twitter.com/ScottPruittOK/status/657679984476209152>; Ex. A71: Scott Pruitt, Facebook (Nov. 3, 2015), <https://www.facebook.com/ScottPruitt/posts/10153176015861643>.

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After the D.C. Circuit Court denied Oklahoma's and the other petitioners' motions to stay the CPP on January 21, 2016, they appealed to the U.S. Supreme Court. Mr. Pruitt took that opportunity to publicly denounce the rule as "unlawful" and accuse EPA of intimidating the states to comply with the CPP "before this president leaves office."³⁰ When a divided Supreme Court stayed the CPP by a 5-4 vote pending the outcome of litigation in the D.C. Circuit, it said nothing about the merits of the case. Mr. Pruitt nevertheless trumpeted the decision as a victory for "freedom and the rule of law" and the Constitution and as a "major win against Obama's federal overreach."³¹ His office promoted a news story crediting his role, reminding the public that "Pruitt has fought the Clean Power Plan at every stage, including in the draft stage before the rule was finalized last year."³² Mr. Pruitt is quoted as explaining that EPA did not have authority for the CPP and "can't simply make it up." Although the stay was only temporary, Mr. Pruitt declared victory: "Our involvement in each of those of three signature issues of the president [immigration, water rule, and CPP] stops them dead in their tracks." "Each of those rules will be dormant and not survive his presidency."³³

Following the merits briefing on the CPP in the D.C. Circuit,³⁴ to which Oklahoma was a party, in the spring of 2016 Mr. Pruitt continued his crusade against the CPP, renewing his vow to "continue to fight against the . . . Clean Power Plan."³⁵ He campaigned explicitly on his success in keeping the CPP at bay: "To take a stand for my campaign is to take a stand for . . . Blocking the President's Clean Power Plan [and his immigration and water rules]."³⁶ Nevertheless, he predicted that the CPP was likely to survive his pending court challenge, though only by virtue of President Obama allegedly "pack[ing] the D.C. Circuit . . . because of these

³⁰ Ex. A72: Scott Pruitt, Facebook (Feb. 3, 2016), <https://www.facebook.com/ScottPruitt/posts/10153327223561643>; Ex. C7: News Stories, Oklahoma Attorney General, (Feb. 3, 2016) (republishing Timothy Cama, *State AGs bullish about challenge to 'unlawful' Obama climate rule*, The Hill, Feb. 3, 2016), https://www.ok.gov/triton/modules/newsroom/newsroom_article.php?id=258&article_id=18340.

³¹ Ex. A75: Scott Pruitt (@ScottPruittOK), Twitter (Feb 9, 2016, 3:58 PM), <https://twitter.com/ScottPruittOK/status/697207977128759296>; Ex. A74: Scott Pruitt, Facebook (Feb. 9, 2016), <https://www.facebook.com/ScottPruitt/posts/10153338067331643>; Ex. A77: Scott Pruitt (@ScottPruittOK), Twitter (Feb 9, 2016, 4:13 PM), <https://twitter.com/ScottPruittOK/status/697211672600023040>; Ex. A76: Scott Pruitt, Facebook (Feb. 9, 2016), <https://www.facebook.com/ScottPruitt/posts/10153338232306643>; Ex. A78: Scott Pruitt, Facebook (Feb. 10, 2016), <https://www.facebook.com/ScottPruitt/photos/a.411319536642.197181.365679946642/10153339403301643/?type=3>;

Ex. A79: Scott Pruitt, Facebook (Feb. 12, 2016), <https://www.facebook.com/ScottPruitt/posts/10153342967351643>.

³² Ex. C8: News Stories, Oklahoma Attorney General (Feb. 10, 2016) (republishing Paul Monies, *U.S. Supreme Court grants stay on implementing Clean Power Plan*, The Oklahoman, Feb. 10, 2016), https://www.ok.gov/triton/modules/newsroom/newsroom_article.php?id=258&article_id=18424.

³³ *Id.*

³⁴ Along with EPA (represented by the U.S. Department of Justice), in 2016 the undersigned States and Local Governments explicitly rejected Oklahoma's interpretation of section 111(d) in briefs they submitted to the D.C. Circuit Court in *West Virginia v. EPA*, No. 15-1363, which had been consolidated with *Oklahoma v. EPA*, No. 15-1364. *See, e.g.*, Respondent EPA's Initial Brief (ECF #1605911) (D.C. Cir. Mar. 28, 2016); State Intervenor's Brief (ECF #1606037) (D.C. Cir. Mar. 29, 2016).

³⁵ Ex. A83: Scott Pruitt, Facebook (Apr. 5, 2016), <https://www.facebook.com/ScottPruitt/posts/10153465943531643>; Ex. A81: Scott Pruitt (@ScottPruittOK), Twitter (Mar. 16, 2016, 7:05 AM), <https://twitter.com/ScottPruittOK/status/710104587261202432>; Ex. A80: Scott Pruitt, Facebook (Mar. 16, 2016), <https://www.facebook.com/ScottPruitt/posts/10153408612316643>.

³⁶ Ex. A82: Scott Pruitt, Facebook (Mar. 30, 2016), <https://www.facebook.com/ScottPruitt/posts/10153451633661643>.

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kinds of cases.”³⁷ He explained to supporters that for this reason³⁸ it was important for the next President to fill the vacancy on the Supreme Court with a Justice who would, after taking the bench in 2017, overrule any unfavorable CPP ruling from the D.C. Circuit Court.³⁹ He again testified in Congress that the CPP was an “audacious assertion of authority” by EPA and “violates the Constitution.” As support, he cited the recent Supreme Court stay, “entered because five members of that court thought it likely that the Plan was unlawful. And those five members of the Court were correct.”⁴⁰ Mr. Pruitt attached to his written testimony a biography that claimed “he led a 29-state coalition who obtained an unprecedented injunction from the U.S. Supreme Court barring the EPA’s ‘Clean Power Plan’ from going into effect.” Among other things, the biography claimed that “Oklahoma AG Scott Pruitt deserves particular credit for developing the federalist arguments and exposing how the Clean Power Plan commandeers states.”⁴¹ His campaign website similarly promoted him as the leader of the litigation against the CPP and promised that “his work continues in the remaining months of the Obama

³⁷ American Conservative Union, *Conservative Political Action Conference* (Mar. 3, 2016), <https://www.c-span.org/video/?405859-16/energy-sufficiency> (18:08-19:46):

But with respect to the lawsuit, it was a very very tragic thing that happened in this country when Justice Scalia passed. . . . And one - the very last thing that he did was to vote for this stay to prevent the EPA from forcing this unlawful rule upon this country. But now we have a situation where the D.C. court, the jurisdiction of this case is the D.C. court. And you may not remember, but this President packed the D.C. Circuit with his - with his justices just a few years ago because of these kinds of cases. And so, we are not terribly optimistic that at the D.C. Circuit, that we’re going to win as a collection of states. And if this case goes up to the Supreme Court with a four-to-four Court, it’s very possible that if the D.C. Circuit rules in the administration’s favor that it will be adverse to the states at the Supreme Court level. The good news is is that the Chief Justice and the Court can retain jurisdiction. They don’t have to actually give the D.C. Circuit deference. They can say, “Look, we argued the case, it’s four to four, we’re going to keep this case, and when we get the fifth Justice appointed, we’ll rehear the case.” I want you to hear this. This election in November is consequential for many reasons. But the most consequential reason, from my estimation, is the control of the U.S. Supreme Court going forward. We must have another Justice Scalia on the U.S. Supreme Court. We must have someone that recognizes the Constitution for what it is, the text and the originalism of it, to control the outer reach federal government. So, that’s what needs to occur in November, and then we’ll have a fifth Justice, and this case can be argued, and hopefully we’ll be protected as we head into 2017.

³⁸ At the time he made those statements, among the eighteen active and senior-status judges who could have been assigned to the three-judge panel for the CPP oral argument then scheduled for June 2, 2016, only four had been appointed by President Obama. The ten-judge *en banc* panel that ultimately heard oral argument on September 27, 2016, included those four judges. (Chief Judge Merrick Garland, whose nomination to fill the vacancy on the Supreme Court was still pending at that time, did not participate in the *en banc* argument.)

³⁹ American Conservative Union, *Conservative Political Action Conference* (Mar. 3, 2016), <https://www.c-span.org/video/?405859-16/energy-sufficiency> (18:08-19:46).

⁴⁰ *Ex. A84: Impact of the EPA’s Clean Power Plan on States: Hearing Before H. Comm. on Science, Space & Technology, Subcomm. on Environment*, 114th Cong. (May 26, 2016) (written statement of E. Scott Pruitt, Attorney General, State of Oklahoma), <https://science.house.gov/sites/republicans.science.house.gov/files/documents/HHRG-114-SY18-WState-SPruitt-20160526.pdf>; *id.* (video: Scott Pruitt testimony at 44:28-49:56), <https://science.house.gov/legislation/hearings/environment-subcommittee-hearing-impact-epa-s-clean-power-plan-states>.

⁴¹ *Id.*

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presidency.”⁴² He discussed his latest trip to Congress in his newsletter, explaining that he testified that, with the CPP, “we didn’t get democracy, we got regulatory cramdown.”⁴³

Mr. Pruitt traveled to Washington, D.C., again in late September 2016 to watch the CPP oral argument before the D.C. Circuit Court. On the eve of the argument he reminded his constituents that, “As I have said many times, this is an effort I believe to be extraordinary in cost, extraordinary in scope and extraordinary as it relates to the intrusion into the sovereignty of the states.”⁴⁴ After the argument, he issued a statement from outside the courthouse, accusing EPA of “abusing and disrespecting the vertical separation of powers defined by our Constitution.”⁴⁵

Days after the November 2016 election, Mr. Pruitt again used his opposition to the CPP to direct the public to his “Oklahoma Strong” political action committee website. “Over the last 6 years, I have done my part, fighting tirelessly against the Affordable Care Act, WOTUS, Immigration, and the Clean Power Plan. Which one of these should President-elect Trump tackle first?”⁴⁶ Within a month, President-elect Trump announced that Mr. Pruitt was his nominee to be EPA Administrator, apparently in large part because of his history of challenging EPA’s legal authority. The Trump transition explained that “Mr. Pruitt has been a national leader against the EPA’s job-killing war on coal.”⁴⁷

During his Senate confirmation hearing the next month, while he was still in the midst of suing EPA to undo the CPP, Mr. Pruitt continued to demonstrate that his long-held view that the CPP was illegal would not change. He testified that “the Clean Power Plan did not reflect the authority of Congress given to the EPA to regulate CO₂,” and explained why he maintains that position.⁴⁸ In response to written questions from Senators, Mr. Pruitt provided further evidence that his mind was already made up regarding the legality of the CPP, which he would soon be responsible for implementing:

⁴² *Ex. C9: Meet Scott*, <http://scottpruitt.com/meet-scott/> (Sept. 26, 2016)

[<https://web.archive.org/web/20170130031627/http://scottpruitt.com/meet-scott/>].

⁴³ *Ex. A85: From the Desk of Scott Pruitt* (Oklahoma Attorney General’s Office), May 27, 2016, <http://www.digitalprairie.ok.gov/cdm/compoundobject/collection/stgovpub/id/491984/rec/54>.

⁴⁴ *Ex. A87: From the Desk of Scott Pruitt* (Oklahoma Attorney General’s Office), Sept. 26, 2016, <http://www.digitalprairie.ok.gov/cdm/compoundobject/collection/stgovpub/id/493308/rec/62>.

⁴⁵ *Ex. A88: Press Release, Oklahoma Attorney General, AG Pruitt Continues Fight to Protect Rule of Law Following Clean Power Plan Arguments* (Sept. 27, 2016), https://www.ok.gov/triton/modules/newsroom/newsroom_article.php?id=258&article_id=25889.

⁴⁶ *Ex. A89: Scott Pruitt, Facebook* (Nov. 17, 2016), <https://www.facebook.com/ScottPruitt/posts/10153988260521643>; see also *Ex. A90: Scott Pruitt (@ScottPruittOK), Twitter* (Nov. 17, 2016, 8:51 AM), <https://twitter.com/ScottPruittOK/status/799293948611203072>.

⁴⁷ *Ex. A91: Press Release, Donald J. Trump, President-Elect Donald J. Trump Intends to Nominate Oklahoma Attorney General Scott Pruitt to Serve as the Administrator of the Environmental Protection Agency* (Dec. 8, 2016), <http://www.presidency.ucsb.edu/ws/index.php?pid=119781>.

⁴⁸ *Ex. A92: Nomination of Attorney General Scott Pruitt to Be Administrator of the U.S. Environmental Protection Agency: Hearing Before S. Comm. on Environment & Public Works, 114th Cong., at 114-115* (Jan. 18, 2017) (transcript), https://www.epw.senate.gov/public/?a=Files.Serve&File_id=1291A5E0-B3AA-403D-8CE3-64CB2EF86851.

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I, along with the Supreme Court, which issued a stay against the Clean Power Plan in February 2016, believe the EPA exceeded the bounds of authority established by Congress in the Clean Air Act. In particular, the Rule attempted to supplant decisions traditionally preserved for the states, including the establishment of intrastate energy policies, for agency mandated alternatives that would have increased the price of electricity for local citizens and reduced reliability.⁴⁹

After he took the oath of office on February 17, 2017, and became Administrator Pruitt, he resigned as Oklahoma Attorney General.⁵⁰

2. Administrator Pruitt has specifically prejudged the question of whether section 111(d) standards can be based on actions outside of a power plant's "fenceline"

Administrator Pruitt's prejudgment that the CPP is illegal goes far deeper than just his conception of federalism or "the rule of law." His proposed repeal of the CPP is explicitly based on the specific legal interpretation of section 111 he promoted for years as Oklahoma Attorney General. Although EPA already expressly considered and rejected his legal interpretation in promulgating the CPP, Administrator Pruitt is now attempting to swap EPA's current legal interpretation for the one for which he has long argued.

For years Administrator Pruitt argued that EPA must adopt a view of its authority under section 111(d) that would limit consideration of the "best system of emission reduction" ("BSER") to those control measures that could be applied at the site of the power plant only. This interpretation both ignores the characteristics of the pollutant at issue (carbon dioxide) and the interconnected nature of the nation's electricity grid in determining the BSER for fossil-fueled power plants. He developed and promoted his own alternative section 111(d) regulatory scheme for power plants based on his particular interpretation of section 111. He testified in Congress in support of his position, and he filed numerous legal briefs attempting to convince a court of it. In October 2017 Administrator Pruitt proposed that this exact legal interpretation replace EPA's existing interpretation, with his preexisting interpretation serving as the explicit justification for repealing the CPP. Given his long record of promoting his particular legal interpretation of BSER under section 111, up through and including his CPP repeal proposal, it is

⁴⁹ Ex. A93: [Excerpts of] Questions for the Record for the Honorable E. Scott Pruitt, Senate Environment and Public Works Committee, Hearing Entitled, "Nomination of Attorney General Scott Pruitt to be Administrator of the U.S. Environmental Protection Agency," at 199 (Jan. 18, 2017) (hereafter "Questions for the Record"), full document available at <https://www.epw.senate.gov/public/cache/files/6d95005c-bd1a-4779-ad7e-be831db6866a/scott-pruitt-qfr-responses-01.18.2017.pdf>.

⁵⁰ Ex. A96: Letter from E. Scott Pruitt, Oklahoma Attorney General, to Mary Fallin, Governor, State of Oklahoma, (Feb. 17, 2017), <https://www.ok.gov/governor/documents/2-17-17%20%20Pruitt%20Resignation%20Letter.pdf>; Ex. A97: Press Release, U.S. Environmental Protection Agency, Scott Pruitt Confirmed and Sworn in as EPA Administrator (Feb 17, 2017), <https://www.epa.gov/newsreleases/scott-pruitt-confirmed-and-sworn-epa-administrator>; Ex. A99: Scott Pruitt (@ScottPruittOK), Twitter (Feb. 17, 2017, 8:59 PM), <https://twitter.com/ScottPruittOK/status/832816771207925760>; Ex. A98: Scott Pruitt, Facebook (Feb. 17, 2017), <https://www.facebook.com/ScottPruitt/posts/10154244467001643>.

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clear that—regardless of the merits of his argument—he has impermissibly prejudged this rulemaking decision.

Even before EPA first proposed a rule to limit carbon dioxide emissions from existing power plants under section 111(d), Mr. Pruitt publicly attacked the suggestion that the Clean Air Act allowed EPA to consider any emission reductions other than those achieved by controls applied at the power plant itself. He testified before Congress in November 2013 to promote that view. With his written testimony, he submitted to Congress a white paper he wrote along with other state attorneys general, entitled “Perspective of 18 States on Greenhouse Gas Emission Performance Standards for Existing Sources under § 111(d) of the Clean Air Act.”⁵¹ In it, he argued that there is no adequately demonstrated control technology to remove carbon dioxide from a power plant’s smokestack, and therefore the only things EPA can consider under section 111(d) are “standards based on cost-effective efficiency improvements at electric generating units, because more efficient units will produce lower CO₂ emissions per unit of heat input or electricity output.” Emission guidelines based on measures such as generation shifting or demand reduction, he argued, “do not conform to the limitations Congress has placed on EPA in the Clean Air Act, nor do they properly preserve the primary role of States in the development of standards of performance for existing sources.”⁵²

Mr. Pruitt further promoted his interpretation of section 111(d) on May 20, 2014, just two weeks before EPA proposed the CPP, when he published *The Oklahoma Attorney General’s Plan: The Clean Air Act Section 111(d) Framework that Preserves States’ Rights*. His press release announced that Mr. Pruitt “unveiled his proposal to give states flexibility to address carbon dioxide emissions standards from existing power plants.”⁵³ Distinguishing his *Plan* from EPA’s anticipated proposal, his press release reported:

Attorney General Pruitt said the Oklahoma Attorney General’s Plan is a better approach to addressing emissions standards. The plan allows each state to set emissions standards for existing units by evaluating each unit’s ability to improve efficiency and reduce carbon dioxide emissions in a cost effective way. The

⁵¹ Ex. A6: EPA’s Proposed GHG Standards for New Power Plants and H.R. ___, *Whitfield-Manchin Legislation: Hearing Before H. Comm. on Energy & Commerce, Subcomm. on Energy & Power*, 113th Cong. (Nov. 14, 2013) (written statement of E. Scott Pruitt, Attorney General, State of Oklahoma), <http://docs.house.gov/meetings/IF/IF03/20131114/101482/HHRG-113-IF03-Wstate-PruittE-20131114-U1.pdf>.

⁵² *Id.* In EPA’s 2014 “Legal Memorandum for Proposed Carbon Pollution Emission Guidelines for Existing Electric Utility Generating Units,” the agency explicitly cited to this white paper Mr. Pruitt submitted to Congress as an example of an alternative legal interpretation. EPA explained that some stakeholders contended, “as a legal matter, the BSER is limited to measures that may be undertaken at the affected electric generating units (EGUs), including on-site controls, activities, or work practices, and cannot include measures that are beyond the affected units.” Legal Memorandum for Proposed Carbon Pollution Emission Guidelines for Existing Electric Utility Generating Units, 76-77 & n.61, <https://www.regulations.gov/contentStream?documentId=EPA-HQ-OAR-2013-0602-0419&contentType=pdf>. The CPP, of course, did not adopt Mr. Pruitt’s legal interpretation. He now proposes explicitly to “rescind” that Legal Memorandum because it is inconsistent with his interpretation. See 82 Fed. Reg. at 48,042/3-48,043/1.

⁵³ Ex. A9: Press Release, Oklahoma Attorney General, “Oklahoma Attorney General’s Plan” Offers State-Focused Framework for Power Plant Emissions Standard (May 20, 2014), https://www.ok.gov/triton/modules/newsroom/newsroom_article.php?id=258&article_id=14211.

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Oklahoma Attorney General's Plan institutes a unit-by-unit, 'inside the fence' approach to determining state emissions standards.⁵⁴

The text of the *Plan* (which refers to itself as "OKAG Plan") is simultaneously a detailed rejection of the legal interpretation of section 111(d) and BSER that EPA makes in the CPP and also a preview of Administrator Pruitt's October 2017 justification for repealing the CPP:

- "The OKAG Plan institutes a unit-by-unit, 'inside the fence' approach to determining State emission standards."
- "With the OKAG Plan, the resource planning function is not usurped by an allocation system or CO₂ budget and instead remains where it belongs – 'inside the fence' in the hands of state regulators."
- "Furthermore, the 'inside the fence' model ensures that emissions reductions are limited to the engineering limits of each facility."⁵⁵
- "The only way to achieve cost-effective emission reductions for a coal generator would be to improve the efficiency of the unit As a result, CO₂ performance standards must be based on unit-by-unit evaluations of available cost-effective efficiency."⁵⁶

Mr. Pruitt then proceeded to publicly promote his *Plan* and its "inside the fence," "unit-by-unit" legal interpretation of section 111(d) as a better alternative to the upcoming EPA proposal. The day he released his *Plan* he appeared at an event at the National Press Club in Washington, D.C., to debate its merits, which he said he hoped would persuade EPA that his "unit-by-unit, inside-the-fence strategy" would prevail.⁵⁷ He advertised that appearance on social media, highlighting his role "fighting the EPA,"⁵⁸ and linked to a news story that compared his *Plan*'s "unit-by-unit" approach to the supposedly impermissible plan he anticipated from EPA.⁵⁹

⁵⁴ *Id.*; see also Ex. A11: Oklahoma Attorney General E. Scott Pruitt, Facebook, (May 21, 2014), <https://wayback.archive-it.org/2083/20150514181339/https://www.facebook.com/AttorneyGeneralPruitt?fref=nf>.

⁵⁵ Ex. A10: E. Scott Pruitt, The Oklahoma Attorney General's Plan: The Clean Air Act Section 111(d) Framework that Preserves States' Rights 2 (Apr. 2014), http://documents.nam.org/ERP/OK_AG_Pruitt_Plan_05.20.14.pdf [<https://web.archive.org/web/20170709131349/https://www.ok.gov/oag/documents/Oklahoma%20Attorney%20General%27s%20Plan.pdf>].

⁵⁶ *Id.* at 7-8.

⁵⁷ Ex. C1: The Oklahoma Attorney General's Plan: The Clean Air Act §111(d) Framework That Preserves States' Rights, 44 Env'tl. L. Rep. News & Analysis 11045 (May 20, 2014) (transcript available at https://www.eli.org/sites/default/files/elr/featuredarticles/article_2014_11_44.11045.pdf) (video available at <https://fedsoc.org/commentary/videos/the-oklahoma-attorney-general-s-plan-the-clean-air-act-section-111-d-framework-that-preserves-states-rights-event-audio-video>).

⁵⁸ Ex. A12: Scott Pruitt, Facebook (May 22, 2014), <https://www.facebook.com/ScottPruitt/posts/10152089044466643>; Ex. A13: Scott Pruitt (@ScottPruittOK), Twitter (May 22, 2014, 5:03 PM), <https://twitter.com/ScottPruittOK/status/469629555599081473>.

⁵⁹ Ex. A14: Scott Pruitt, Facebook (May 29, 2014), <https://www.facebook.com/ScottPruitt/posts/10152103676451643> (linking to Ex. C2: Michael Bastasch, AG: EPA's 'Cap-And-Trade Scheme' Would Violate The Clean Air Act, The Daily Caller, May 29, 2014, <http://dailycaller.com/2014/05/29/ag-epas-cap-and-trade-scheme-would-violate-the-clean-air-act/>).

While EPA was considering comments on the proposed CPP, Mr. Pruitt continued to push for his *Plan*'s "inside-the-fence" legal interpretation of BSER and to make himself the face of that position. He was the principal commenter in a letter to EPA attacking the proposed CPP. He wrote that EPA's consideration of emission reductions beyond "source-level, inside-the-fenceline measures" "violates Section 111(d)'s plain-text requirement that the performance standards established for existing sources by the states must be limited to measures that apply at existing power plants themselves."⁶⁰ He provided a detailed legal argument for his position that "Section 111(d) unambiguously mandates that . . . states must establish standards of performance applicable to *individual sources* of pollutants."⁶¹ He argued that the term BSER only allows application of controls "*to the individual sources*" and that "whatever the 'best system' is, it must be a system that reduces emissions from *a particular source*."⁶² He argued this same view to the Senate in May 2015, testifying that section 111(d) standards are only those that can be met "by existing industrial sources through source-level, 'inside-the-fence-line' measures," and that the CPP "violates Section 111(d)'s plain-text requirement that the performance standards established for existing sources by the States must be limited to measures that apply at existing power plants themselves."⁶³

Mr. Pruitt's July 2015 Oklahoma-only, premature district court lawsuit to stop EPA from finalizing the CPP echoed his legal interpretation of BSER as promoted in his *Plan*. In the preliminary injunction motion he signed, Mr. Pruitt told the court that the proposed CPP "is also unlawful because it relies on 'beyond-the-fenceline' measures that do not concern the emissions performance of individual sources and are therefore outside the regulatory scope of Section 111(d)."⁶⁴ He told the court that "EPA lacks authority under the CAA to regulate beyond-the-fenceline," and that "consistent with plain meaning, 'best system of emission reduction' must be limited to on-site measures to avoid constitutional infirmity."⁶⁵ Mr. Pruitt also wrote that:

[W]hile the first "building block"—reducing emissions by improving sources' efficiency—may be lawful to the extent that it is "achievable," measures that involve reducing the utilization of coal-fired power plants in favor of other generation sources or reducing energy consumption are not permissible components of the "best system of emission reduction" that underlies a Section 111 standard.⁶⁶

⁶⁰ Ex. A19: Letter from Scott Pruitt, Oklahoma Attorney General, to EPA Docket (Nov. 24, 2014), <https://www.regulations.gov/document?D=EPA-HQ-OAR-2013-0602-25433>.

⁶¹ *Id.* at 16 (emphasis in original).

⁶² *Id.* at 18-19 (emphasis in original).

⁶³ Ex. A43: *Legal Implications of the Clean Power Plan: Hearing Before the S. Comm. on Environment & Public Works, Subcomm. on Clean Air & Nuclear Safety*, 114th Cong. (May 5, 2015) (written statement of E. Scott Pruitt, Attorney General, State of Oklahoma), https://www.epw.senate.gov/public/_cache/files/6/0/60e46f76-2eb8-4761-bd88-b89b31f7d0ad/01AFD79733D77F24A71FEF9DAFCCB056.agscottpruitt.pdf.

⁶⁴ Ex. A51: Brief in Support of Plaintiff's Motion for Preliminary Injunction (ECF #6) at 13, *Oklahoma v. McCarthy*, No. 4:15-cv-00369 (N.D. Okla. July 1, 2015).

⁶⁵ *Id.* at 19, 24.

⁶⁶ *Id.* at 13-14.

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The proposed CPP repeal notice Administrator Pruitt would sign two years later makes the same argument:

While building block 1 constituted measures that could be applied directly to a source—that is, integrated into its design or operation—building blocks 2 and 3 employed measures that departed from this traditional, source-specific approach to regulation and that were expressly designed to shift the balance of coal-, gas-, and renewable-generated power at the grid-wide level, subjecting these building blocks to claims that they constituted energy, rather than environmental, policy.

82 Fed. Reg. at 40,037/3.

Although the October 2017 CPP repeal notice did not specify who had been “subjecting” building blocks 2 and 3 to those “claims,” Administrator Pruitt was certainly among them. When he filed the Oklahoma-only motion to stay the final CPP in October 2015, he told the court that “serious constitutional doubt as to the Rule’s validity may be avoided only by interpreting Section 111(d)’s ‘best system of emission reduction’ standard consistent with its plain meaning as limited to facility-based measures like control systems and work practices,” that “EPA, however, itself lacks the authority to carry out all but the first of these building blocks, as well as supporting actions necessary to reorganize the production, regulation, and distribution of electricity,” that “consistent with plain meaning, ‘best system of emission reduction’ must be limited to inside-the-fenceline measures to avoid constitutional infirmity,” and that his inside-the-fenceline interpretation, “limited to source-level measures, also avoids constitutional doubt, because it concerns only sources of emissions themselves.”⁶⁷ He sounded the same note in Congress while the CPP litigation was pending in the D.C. Circuit, testifying that section 111(d) standards “must reflect the ‘application of the best system of emission reduction’ to that ‘source,’ i.e., to a ‘building, structure, facility, or installation.’” In other words, EPA may seek to reduce emissions only through measures that can be implemented by individual facilities.”⁶⁸ Thus, not only is Administrator Pruitt attempting to replace EPA’s current legal interpretation with the one he had been promoting, he is also justifying that change on the ground that he (and others) had previously criticized EPA’s interpretation.

⁶⁷ Ex. A70: Petitioner Oklahoma’s Motion for Stay of EPA’s Existing Source Performance Standards for Electric Generating Units (ECF #1580577) at 2-3, *Oklahoma v. EPA*, No. 15-1364 (D.C. Cir. Oct. 28, 2015). Joint filings Mr. Pruitt made against the CPP with other state attorneys general are consistent. Oklahoma also joined the application for an administrative stay of the CPP in August 2015, which argued that “EPA is limited to requiring the States to adopt energy policy measures that ‘hold[] the industry to a standard of improved design and operational advances.’ [citation] Blocks 2 and 3 go well beyond this, and are thus entirely unlawful.” Ex. A59: Application for Administrative Stay by the State of West Virginia and 15 Other States (Aug. 5, 2015) at 4, <https://www.regulations.gov/document?D=EPA-HQ-OAR-2013-0602-37226>.

⁶⁸ Ex. A84: *Impact of the EPA’s Clean Power Plan on States: Hearing Before H. Comm. on Science, Space & Technology, Subcomm. on Environment*, 114th Cong. (May 26, 2016) (written statement of E. Scott Pruitt, Attorney General, State of Oklahoma), <https://science.house.gov/sites/republicans.science.house.gov/files/documents/HHRG-114-SY18-WState-SPruitt-20160526.pdf>; *id.* (video: Scott Pruitt testimony at 44:28-49:56), <https://science.house.gov/legislation/hearings/environment-subcommittee-hearing-impact-epa-s-clean-power-plan-states>.

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3. Administrator Pruitt's statements since taking over EPA continue to show a closed mind

After becoming Administrator, Mr. Pruitt did not pretend that his new job had opened his once-closed mind. He instead made a seamless transition from champion of the fight against the CPP to biased decision maker in the CPP repeal administrative process. He continues to publicly attack the CPP as unlawful and call for its repeal. The only difference is that now he occupies the office that has the power to determine the fate of the CPP.

The day after he was sworn in, Administrator Pruitt and EPA both used official social media accounts to promote a *Wall Street Journal* interview in which he stated that the “past administration didn’t bother with statutes” and “disregarded the law,” and in which he explained that he expected to quickly withdraw the CPP.⁶⁹ In a subsequent television interview on *This Week*, he even went so far as to accuse the Obama Administration of intentionally trying to “kill jobs throughout the country through the Clean Power Plan,” a statement that EPA highlighted in a press release.⁷⁰

After President Trump issued Executive Order 13783 on March 28, 2017, calling for a “review” of the CPP, Administrator Pruitt signed an “Announcement” that EPA would be reviewing the CPP.⁷¹ That evening EPA asked the D.C. Circuit Court, poised to issue a ruling on the legality of the CPP, to hold in abeyance the CPP challenges, which had been pending before the *en banc* Court since the oral argument six months earlier.⁷² The abeyance EPA requested continues to this day.

The next day Administrator Pruitt appeared on the Hugh Hewitt radio show and confirmed that withdrawal of the CPP was a foregone conclusion now that he was in charge. He reiterated his long-held belief that, through the CPP, EPA had “reimagined its authority under the Clean Air Act to regulate CO₂ with stationary sources in a way that just isn’t consistent with the framework that Congress passed.” Explaining the significance of the new Executive Order, he said, “really what happened yesterday with the Clean Power Plan is cleaning up the mess, you know, clearing the decks, if you will.”⁷³ The day after, Administrator Pruitt signed letters to all

⁶⁹ Ex. A100: Scott Pruitt, Facebook (Feb. 18, 2017), <https://www.facebook.com/EPAScottPruitt/posts/1408365892541915> (linking to Ex. C10: Kimberley A. Strassel, *Scott Pruitt’s Back-to-Basics Agenda for the EPA*, Wall Street Journal, Feb. 17, 2017, <https://www.wsj.com/articles/scott-pruitts-back-to-basics-agenda-for-the-epa-1487375872>).

⁷⁰ Ex. A103: Press Release, U.S. Environmental Protection Agency, EPA Administrator Pruitt Previews President Trump’s Executive Order on Energy Independence (Mar. 26, 2017), <https://www.epa.gov/newsreleases/epa-administrator-pruitt-previews-president-trumps-executive-order-energy-independence>; see also Ex. A101: Scott Pruitt (@EPAScottPruitt), Twitter (Mar. 26, 2017, 7:37 AM), <https://twitter.com/EPAScottPruitt/status/846008281260834816>; Ex. A102: Scott Pruitt, Facebook (Mar. 26, 2017), <https://www.facebook.com/EPAScottPruitt/posts/1444794498899054>.

⁷¹ Review of the Clean Power Plan, 82 Fed. Reg. 16,329 (Apr. 4, 2017).

⁷² Notice of Executive Order, EPA Review of Clean Power Plan and Forthcoming Rulemaking, and Motion to Hold Cases in Abeyance (ECF #1668274), *West Virginia v. EPA*, No. 15-1363 (D.C. Cir. Mar. 28, 2017).

⁷³ Ex. C11: Interview by Hugh Hewitt with Scott Pruitt, EPA Administrator, *EPA Administrator* [sic] *Scott Pruitt: “The Days Of ‘Sue And Settle’ ... Have Ended.”* (Mar. 29, 2017) (transcript available at

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state governors offering his opinion that they no longer had any obligation to comply with the Clean Power Plan and that any deadlines would be tolled while the Supreme Court stay was in effect. “The days of coercive federalism are over,” he proclaimed.⁷⁴

He was on *Fox News Sunday* three days later to further praise the executive order and criticize the legal foundation of the CPP, arguing that “The past administration just made it up. They re-imagined authority under the statute.” As to what to do about the carbon dioxide emissions the CPP was designed to reduce, Administrator Pruitt said, “you can’t just simply, from the EPA perspective, make that up. You can’t do what the President did previously with the Clean Power Plan, President Obama, and his administration, to simply re-imagine authority. That’s why we have a U.S. Supreme Court stay against the Clean Power Plan.”⁷⁵ Despite the absence of any court rulings on the merits of the CPP, he justified repeal of the CPP on the mere existence of the litigation he recently led against the rule:

You’ve talked about many times, the regulatory overreach, about executive fiat that the previous administration engaged in. We can’t continue that process because what happens, Chris [Wallace], is clean air is not advanced because you have the litigation such as the Clean Power Plan. You have stays of enforcement against that Clean Power Plan, and there’s no progress being made with clean air and we also are spending money on litigation.⁷⁶

In May 2017 Administrator Pruitt wrote an editorial again attacking the legality and wisdom of the CPP and confirming that he had prejudged the outcome of the “review” of the CPP. He wrote in an editorial that for those who “expect lawful, effective and economically sound regulation — the Clean Power Plan failed on all three counts.” He proclaimed that President Trump’s executive order “was a moment in which a promise became an economic reality. As EPA Administrator, I immediately ordered my Agency to comply with the March 28

<http://www.hughbewitt.com/epa-administrator-scott-pruitt-days-sue-settle-ended/>) (audio available at <http://www.hughbewitt.com/wp-content/uploads/03-29hhs-pruitt.mp3>).

⁷⁴ See, e.g., Ex. A108: Letter from Scott Pruitt, EPA Administrator, to Matt Bevin, Governor of Kentucky (Mar. 30, 2017), https://www.epa.gov/sites/production/files/2017-03/documents/ky_bevin.pdf; Ex. A107: Press Release, U.S. Environmental Protection Agency, EPA Administrator Sends Clean Power Plan Guidance Letter to Governors (Mar. 30, 2017), <https://www.epa.gov/newsreleases/epa-administrator-sends-clean-power-plan-guidance-letter-governors-0>; Ex. A110: Scott Pruitt, Facebook (Mar. 31, 2017), <https://www.facebook.com/EPAScottPruitt/posts/1450735668304937>; Ex. A111: Scott Pruitt, Facebook (Mar. 31, 2017), <https://www.facebook.com/EPAScottPruitt/posts/1450940428284461>. A number of the undersigned state attorneys general responded to Administrator Pruitt’s letter, disagreeing with his legal opinion and pointing out that his attempt to “persuade the Governors of his view of how a stay issued in the course of the litigation should affect parties’ future compliance responsibilities” was “inconsistent with his agreement not to participate in the litigation in light of his representation of Oklahoma in the case.” Ex. B12: Letter from Michael J. Myers, Assistant Attorney General, Office of the New York Attorney General, to Kevin S. Minoli, EPA Acting General Counsel (Aug. 30, 2017), https://ag.ny.gov/sites/default/files/2017_0830_letter_to_epa_re_cpp_stay.pdf.

⁷⁵ Interview by Chris Wallace, *Fox News Sunday*, with Scott Pruitt, EPA Administrator, *Scott Pruitt on balancing environmental, economic priorities* (Apr. 2, 2017) (preliminary transcript available at <http://www.foxnews.com/transcript/2017/04/02/scott-pruitt-on-balancing-environmental-economic-priorities-mitch-mccconnell-on-gorsuch-nomination-health-care-reform.html>) (video available at <http://video.foxnews.com/v/5382367267001/?#sp=show-clips>).

⁷⁶ *Id.*

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executive order, and signed four new rules, which included a review of the Clean Power Plan.”⁷⁷ EPA issued his editorial, verbatim, as a news release. A week later he directed the public to an article that showed he still held the view that all of the lawsuits he filed, such as the one to invalidate the CPP, were correct.⁷⁸ An EPA press office statement on the article quotes him as explaining that he sued his agency so many times because, “They deserved it and they deserved it because they exceeded their statutory authority, they exceeded their constitutional authority.”⁷⁹

The notice of proposed rulemaking to withdraw the CPP, which Administrator Pruitt signed on October 10, 2017, states that he intends to “rescind” EPA’s 2014 “Legal Memorandum for Proposed Carbon Pollution Emission Guidelines for Existing Electric Utility Generating Units” because it is “inconsistent with the statutory interpretation proposed” in the proposed CPP repeal rule. Specifically, the Legal Memorandum is objectionable to Administrator Pruitt because significant portions are “devoted to arguing that the BSER on which performance standards under CAA section 111(d) is based can encompass measures other than physical or operational changes taken at the level of and applicable to an individual source.” 82 Fed. Reg. at 48,042/3. In other words, Administrator Pruitt wants to “rescind” the Legal Memorandum because EPA’s existing legal interpretation is contrary to one he has spent years promoting.

Although the October 10, 2017, CPP repeal notice ostensibly requests public comment, Administrator Pruitt’s statements surrounding release of the proposal indicate his mind is made up. EPA’s press release announcing the proposal said that the Supreme Court’s stay prevented the CPP’s “devastating effects to be [sic] imposed on the American people.” Continuing to cast himself as a defender against this alleged devastation, Administrator Pruitt pledged that he was committed to “righting the wrongs of the Obama administration by cleaning the regulatory slate,” and criticized the CPP for requiring actions “outside the fence line.”⁸⁰ He told another media outlet that, unlike the Obama Administration, he would not simply make up the law. He explained that when EPA did so in the CPP, the “Supreme Court intervened and said, stop the enforcement of the rule because it’s going to impact the marketplace in ways that we don’t think

⁷⁷ Ex. C12: Press Release, U.S. Environmental Protection Agency, In Case You Missed It ...EPA is Putting American Workers First (May 2, 2017) (republishing Scott Pruitt, *EPA is putting American workers first*, Washington Times, May 2, 2017), <https://www.epa.gov/newsreleases/case-you-missed-it-epa-putting-american-workers-first-0>; Ex. A113: U.S. Environmental Protection Agency (@EPA), Twitter (May 2, 2017, 7:50 AM), <https://twitter.com/EPA/status/859419758990635008>.

⁷⁸ Ex. A114: Scott Pruitt (@EPAScottPruitt), Twitter (May 11, 2017, 12:05 PM) <https://twitter.com/EPAScottPruitt/status/862745467679121408> (linking to article entitled *Scott Pruitt Explains Why He Sued EPA So Many Times: ‘They Deserved It’*).

⁷⁹ Ex. A116: Press Release, U.S. Environmental Protection Agency, EPA’s Weekly Round-Up (May 12, 2017), <https://www.epa.gov/newsreleases/epas-weekly-round>.

⁸⁰ Ex. A117: Press Release, U.S. Environmental Protection Agency, EPA Takes Another Step To Advance President Trump’s America First Strategy, Proposes Repeal Of “Clean Power Plan” (Oct. 10, 2017), <https://www.epa.gov/newsreleases/epa-takes-another-step-advance-president-trumps-america-first-strategy-proposes-repeal>; see also Ex. A118: Scott Pruitt, Facebook (Oct. 10, 2017), <https://www.facebook.com/EPAScottPruitt/posts/1649983501713485>.

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meet the statutory criteria or authority of the agency.”⁸¹ In fact, the Supreme Court’s order contained no discussion of its reasoning whatsoever.⁸²

Administrator Pruitt has demonstrated time and again that his mind is unalterably closed and that he has prejudged whether the CPP should be repealed, whether it is within EPA’s legal authority, and specifically whether section 111(d) guidelines must be based solely on controls applied directly at power plants. On October 11, 2017, the day after formally proposing to repeal the CPP, Administrator Pruitt again appeared on the Hugh Hewitt radio show to promote his position.⁸³ Mr. Hewitt reminded Administrator Pruitt that he must not prejudge the outcome of the administrative process:

Because I know you know from your time as Attorney General of Oklahoma that the Agency is obliged to take seriously the comments it receives during this process, you will not prejudge the conclusion. . . . The first thing is you have to revoke a deficient rule if indeed it is found by the notice and comment process to be deficient. Is that in fact correct, Scott Pruitt? Is that the order you’re following?

Despite this clear prompting, Administrator Pruitt responded by explaining how, in fact, he had already determined the scope of EPA’s legal authority and had settled upon an approach he preferred, *The Oklahoma Attorney General’s Plan*:

Yes. Yes, yes, Hugh, I think that as we look at the sequencing of this, I mean, you’ve got a rule that’s been stayed by the U.S. Supreme Court. But you don’t know how long that stay is going to, you know, remain in place. . . . So this is a

⁸¹ Ex. C16: Interview by Rob Bluey with Scott Pruitt, EPA Administrator (Oct. 17, 2017) (transcript available at <http://daily.signal.com/2017/10/20/trumps-epa-chief-charts-new-course-interview-scott-pruitt/>) (video available at Heritage Foundation, Facebook (Oct. 17, 2017),

<https://www.facebook.com/heritagefoundation/videos/10155780088559481/> (Pruitt interview at 11:35-46:32)). Administrator Pruitt continues to share the video of this interview through his official EPA Facebook account. See Scott Pruitt, Facebook (Oct. 17, 2017), <https://www.facebook.com/EPAScottPruitt/> (last visited Jan. 8, 2018).

⁸² Ex. A73: *Chamber of Commerce v. EPA*, No. 15A787 (U.S. Feb. 9, 2016) (order granting application for stay), http://www.supremecourt.gov/orders/courtorders/020916zr3_hf5m.pdf. In addition to this and the explanation of the Supreme Court’s reasoning that he provided during his Senate confirmation process (see text at note 49, *supra*), Administrator Pruitt recently testified to Congress with yet another theory about the Court’s rationale for the stay:

[I]t was unprecedented for the U.S. Supreme Court to enter a stay against the Clean Power Plan. And, as you know, you don’t get a stay of enforcement on a rule unless there’s a likelihood of success on the merits later. And so, there was an understanding that the steps taken by the previous administration, Building Blocks 1, 2, 3, and 4, there was a reimagining of authority that took place under Clean Air Act that caused a lot of confusion as to what was authorized and what wasn’t. That’s not the proper way to approach these issues

Ex. A119: *The Mission of the U.S. Environmental Protection Agency: Hearing Before H. Comm. on Energy & Commerce, Subcomm. on Environment*, 115th Cong. (Dec. 7, 2017), at 51-52 (preliminary transcript), <http://docs.house.gov/meetings/IF/IF18/20171207/106701/HHRG-115-IF18-Transcript-20171207.pdf>; *id.* (video: testimony at 56:17-57:08), <https://energycommerce.house.gov/hearings/mission-u-s-environmental-protection-agency/>.

⁸³ Ex. C17: Interview by Hugh Hewitt with Scott Pruitt, EPA Administrator, *EPA Administrator Scott Pruitt On Clean Power Plan Rulemaking* (Oct. 11, 2017) (transcript available at <http://www.hughhewitt.com/epa-administrator-scott-pruitt-clean-power-plan-rulemaking/>) (audio available at <http://www.hughhewitt.com/wp-content/uploads/10-11hhs-pruitt.mp3>).

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situation, Hugh, that we had to provide clarity first and foremost about the deficiency of this particular rule. But we have also been doing our work to prepare for, you know, what does the statute allow us to do? I actually introduced something in June of 2015 [sic], Hugh, called the Oklahoma Plan. I went through a Section 111 of the Clean Air Act and evaluated what authority existed to regulate CO₂ under Section 111, which deals with power generation facilities. I was at the National Press Club that very month about five or so days before the Clean Power Plan came out, and was debating someone from the NRDC, and shared this entire plan with them. There are steps that we can take with respect to this issue. But they are modest. They are humble

As noted above, the merits of Administrator Pruitt's firmly held views on the illegality of the CPP are not relevant to whether he may participate in a rulemaking that eliminates the CPP. It is because he has an unalterably closed mind on the subject that due process, fairness, and the requirements of rational decision making are violated by his participation in the process.

C. Administrator Pruitt's prejudging of issues is not excused because he is a lawyer

EPA cannot rationalize Administrator Pruitt's past actions as Oklahoma Attorney General as merely the work of a hired lawyer doing the bidding of an impersonal client "state," such that he still has an open mind on whether to repeal the CPP. As an initial matter, the Attorney General of Oklahoma is not just any lawyer, acting in his client's best interests without regard to his own views. In Oklahoma the Attorney General is an independently elected officer who is not appointed by the Governor. The Attorney General is "the chief law officer of the state." Okla. Stat. Ann. tit. 74, § 18 (West). His duties "call for the exercise of personal judgment based on the facts and circumstances surrounding each particular question," and he "possesses complete dominion over every litigation in which he properly appears in the interest of the State." *State ex rel. Derryberry v. Kerr-McGee Corp.*, Okla., 516 P.2d 813, 818, 821 (Okla. 1973).

In this capacity, as previously described, Mr. Pruitt built his reputation around fighting certain regulations adopted by the Obama Administration, and he made great efforts to promote himself as one of the leaders in the struggle against the CPP specifically. He made sure that the public was well aware of his crusade against the CPP, sought campaign donations for his efforts, and even lobbied for a change to Oklahoma law that would effectively give him veto power over Oklahoma's ability to implement the CPP. These are not the actions of a mere hired advocate whose mind might remain open enough, once in the job as regulator, to fairly consider a rule he had previously opposed on behalf of a client.

D. Administrator Pruitt has made an irrevocable promise to repeal the CPP

An agency decision maker is free to express opinions and discuss policy positions as part of the rulemaking process, so long as "he remain[s] free, both in theory and in reality, to change his mind upon consideration of the presentations made by those who would be affected." *Ass'n of Nat'l Advertisers, Inc. v. FTC*, 627 F.2d at 1172. Having vowed to fulfill President Trump's promise to abolish the CPP, Administrator Pruitt has no such freedom in theory or in reality.

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Administrator Pruitt, as a practical matter, cannot now change his mind “upon consideration of the presentations” of the public.

With Administrator Pruitt, Vice President Pence, and a group of coal company executives and miners looking on and applauding, President Trump signed the executive order directing EPA to “review” the CPP.⁸⁴ No one could mistake this, however, for an invitation to Administrator Pruitt to dispassionately consider the wisdom of the rule. The President told those gathered and the public that:

One after another, we’re keeping our promises and putting power back into the hands of the people. First, today’s energy independence action calls for an immediate reevaluation of the so-called Clean Power Plan. Perhaps no single regulation threatens our miners, energy workers, and companies more than this crushing attack on American industry.⁸⁵

The White House press release of the same day further cast revealing the CPP as the completed fulfillment of one of candidate Donald Trump’s promises.

FULFILLING HIS PROMISE: By taking action on the Clean Power Plan, President Trump is fulfilling his promise to the American people. As a candidate, Mr. Trump promised “we will eliminate... the Clean Power Plan—these unilateral plans will increase monthly electric bills by double-digits without any measurable improvement in the climate.”⁸⁶

A few days later Administrator Pruitt himself equated the “review” of the CPP with a campaign promise fulfilled (adding that the CPP stay further justified the executive order):

... I think what’s important this past week is to recognize that the President is keeping his promise to the American people to roll back regulatory overreach that’s been occurring the last several years. And as you know, the Clean Power Plan is subject to a U.S. Supreme Court stay. And the steps that have been taken by the EPA historically, have equally been challenged several times with respect to CO₂ regulation. And each of those times the Supreme Court and courts have entered and said that the power that’s been used has been an overreach. And so, the President is keeping his promise to deal with that overreach⁸⁷

⁸⁴ Nine months later, Administrator Pruitt continues to use a picture from the event as the cover photo on his official EPA Facebook account. Ex. A120: Scott Pruitt, Facebook, <https://www.facebook.com/EPAScottPruitt/> (last visited Jan. 8, 2018).

⁸⁵ Ex. A104: Remarks by President Trump at Signing of Executive Order to Create Energy Independence, White House (Mar. 28, 2017) (transcript available at <https://www.whitehouse.gov/the-press-office/2017/03/28/remarks-president-trump-signing-executive-order-create-energy>) (video available at https://www.youtube.com/watch?v=OdkThe_O50M, see 7:56-9:29).

⁸⁶ Ex. A105: Fact Sheet, White House, President Trump’s Energy Independence Policy (Mar. 28, 2017), <https://www.whitehouse.gov/the-press-office/2017/03/28/president-trumps-energy-independence-policy>

⁸⁷ Interview by Chris Wallace, Fox News Sunday, with Scott Pruitt, EPA Administrator, *Scott Pruitt on balancing environmental, economic priorities* (Apr. 2, 2017) (preliminary transcript available at <http://www.foxnews.com/transcript/2017/04/02/scott-pruitt-on-balancing-environmental-economic-priorities-mitch->

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EPA also issued a press release, using various sources to praise the executive order and attack the CPP, quoting one who declared that “By executive order, President Trump has axed the CPP.”⁸⁸ And, weeks before Administrator Pruitt signed the proposed CPP repeal, President Trump himself bragged that the rule was already gone. Campaigning for former Alabama Attorney General and CPP litigation opponent Luther Strange, President Trump declared mission accomplished, slashing Xs in the air with an imaginary pen:

As your Attorney General, Luther helped you lead the fight in court against the Obama Administration’s big power grabs. That includes challenging the EPA’s Clean Power Plan, which, by the way, did you see what I did to that? Boom. Gone. Look at that guy. He knows. Gone. And I did that one without Luther.⁸⁹

Administrator Pruitt has, consistent with his previous statements and actions, personally, irrevocably committed himself to fulfilling President Trump’s promise to end the CPP. A week after proposing the CPP repeal, Administrator Pruitt repeated the claim that the Obama Administration had declared a war on coal and fossil fuels, but that “It ended under President Trump.”⁹⁰ Weeks later, in a pre-taped address, he explained:

There’s great optimism across the country because of President Trump’s leadership and those that are leading across the country to get tremendous change with respect to regulatory reform. And just to update you a little bit on what we’ve been doing – we’ve been providing clarity, regulatory reform in areas that matter. We’ve withdrawn the Clean Power Plan, and we’re providing, you know, certainty and clarity there.⁹¹

And there is no reason to think that in this rulemaking Administrator Pruitt will open his mind to a new perspective on the CPP when this is how he sees his role with respect to President Trump: “I seek every day, and I mean this sincerely, to bless him. I want to bless him and the decisions he’s making.”⁹²

mccormack-on-gorsuch-nomination-health-care-reform.html) (video available at <http://video.foxnews.com/v/5382367267001/?#sp=show-clips>).

⁸⁸ Ex. A112: Press Release, U.S. Environmental Protection Agency, High Accolades Across the Country on Trump’s Energy Independence Executive Order (Apr. 4, 2017), <https://www.epa.gov/newsreleases/high-accolades-across-country-trumps-energy-independence-executive-order>.

⁸⁹ President Trump Remarks at Senator Strange Campaign Rally, Huntsville, Ala. (Sept. 22, 2017), at 1:00:40-1:01:20, <https://www.c-span.org/video/?434480-1/president-trump-campaigns-alabama-senator-luther-strange>.

⁹⁰ Ex. C16: Interview by Rob Bluey with Scott Pruitt, EPA Administrator (Oct. 17, 2017) (transcript available at <http://dailysignal.com/2017/10/20/trumps-epa-chief-charts-new-course-interview-scott-pruitt/>) (video available at Heritage Foundation, Facebook (Oct. 17, 2017), <https://www.facebook.com/heritagefoundation/videos/10155780088559481/> (Pruitt interview at 11:35-46:32)).

⁹¹ The Heartland Institute, *Scott Pruitt at Heartland’s America First Energy Conference* (Nov. 14, 2017), <https://www.youtube.com/watch?v=SvXvoZ6o1sM>.

⁹² Ex. C16: Interview by Rob Bluey with Scott Pruitt, EPA Administrator (Oct. 17, 2017) (transcript available at <http://dailysignal.com/2017/10/20/trumps-epa-chief-charts-new-course-interview-scott-pruitt/>) (video available at Heritage Foundation, Facebook (Oct. 17, 2017), <https://www.facebook.com/heritagefoundation/videos/10155780088559481/> (Pruitt interview at 11:35-46:32)).

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Given his personal commitment to make true the President's promise that the CPP is dead, Administrator Pruitt is not remotely able to fairly consider the comments from members of the public who want the CPP's effective carbon dioxide emissions reductions nor is he free to change his mind about whether to repeal the rule. He must therefore be disqualified from participating in rulemaking concerning repeal of the CPP. *Ass'n of Nat'l Advertisers, Inc. v. FTC*, 627 F.2d at 1172; *cf. Int'l Snowmobile Mfrs. Ass'n v. Norton*, 340 F. Supp. 2d at 1261 ("Given these definite statements from the Assistant Secretary . . . , it does not seem that the [agency] could have issued any other rule than the one that was ultimately contained in the [final rule]."). EPA's failure to disqualify him to date constitutes a procedural violation that would subject any final action to reversal by a reviewing court. *See* 42 U.S.C. § 7607(d)(9)(D); 5 U.S.C. § 706(2)(D). Because EPA cannot legally finalize the proposed CPP repeal through this tainted rulemaking process, it must withdraw the proposal.

II. EPA'S FAILURE TO REQUIRE ADMINISTRATOR PRUITT TO UNDERGO THE ETHICS AUTHORIZATION PROCESS BEFORE PARTICIPATING IN THE RULEMAKING DISREGARDS REQUIRED PROCEDURES IN VIOLATION OF THE CLEAN AIR ACT

An independent reason that EPA must withdraw the CPP repeal proposal is that, because EPA failed to observe procedures required by law, any resulting final rule would be subject to reversal. *See* 42 U.S.C. § 7607(d)(9)(D); 5 U.S.C. § 706(2)(D). Federal ethics regulations provide a mechanism for EPA to analyze the appearance of lack of impartiality by Administrator Pruitt in connection with this rulemaking, but EPA did not follow those procedures and claims that it need not do so. That failure is arbitrary and capricious and is "so serious and related to matters of such central relevance to the rule that there is a substantial likelihood that the rule would have been significantly changed if such error[] had not been made." 42 U.S.C. § 7607(d)(9)(D). *See United States v. Caceres*, 440 U.S. 741, 754 (1979) ("Agency violations of their own regulations . . . may well be inconsistent with the standards of agency action which the APA directs the courts to enforce."); *Small Refiner Lead Phase-Down Task Force v. EPA*, 705 F.2d 506, 523 (D.C. Cir. 1983) ("At a minimum, failure to observe the basic APA procedures, if reversible error under the APA, is reversible error under the Clean Air Act as well.").

First, EPA failed to require Administrator Pruitt to follow the procedures specified in 40 C.F.R. § 2635.502(d) to obtain ethics authorization before he became involved in the CPP repeal rulemaking. That provision sets forth a multifactor test for determining whether an agency employee may participate in a particular matter where it would raise a question in the mind of a reasonable person about the employee's impartiality.

As Administrator Pruitt conceded in his May 4, 2017, recusal memorandum, he would need to obtain ethics authorization to participate in any of the lawsuits he filed against EPA while serving as Oklahoma Attorney General⁹³—including his lawsuits against the CPP—as

⁹³ Ex. B8: Memorandum from E. Scott Pruitt, EPA Administrator, to Acting Assistant Administrators, et al., My Ethics Obligations (May 4, 2017), *available at* <https://foiaonline.regulations.gov/foia/action/public/view/record?objectId=090004d2812efc2b&fromSearch=true>

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each is considered a “particular matter involving specific parties,” and he has a covered relationship with his recent employer, the State of Oklahoma.⁹⁴ He has not, however, recused himself from participating in EPA rulemakings directly related to litigation matters on which he has acknowledged a conflict.

Although the current CPP repeal rulemaking would achieve the exact same outcome Administrator Pruitt sought in his various attempts to overturn the CPP through the courts, neither Administrator Pruitt nor EPA’s Designated Agency Ethics Official have even evaluated whether he can be involved in this rulemaking under the federal ethics procedures.⁹⁵ Not only has Administrator Pruitt not obtained any authorization before participating in the rulemaking on the CPP, EPA denies any obligation for him to do so. In a September 2017 interview, EPA’s Designated Agency Ethics Official explained that although Administrator Pruitt “recused himself from specific cases . . . the ethics rules authorize [him] to participate in generally applicable regulatory actions.”⁹⁶ Administrator Pruitt made a similar claim in his May 4, 2017, recusal memorandum, stating that the ethics limitation in 40 C.F.R. § 2635.502(d) “does not extend to particular matters of general applicability, such as rulemaking.”⁹⁷ This is a misunderstanding of the law and an abuse of discretion.

(original version; memorandum updated May 17, 2017 (Ex. B9)). In that memorandum Administrator Pruitt set forth his ethics obligations with respect to the CPP litigation (among other cases), explaining that “Thus far, I have not participated in any of the cases listed in this recusal statement officially at all.”

⁹⁴ An employee has a covered relationship with a person or entity for whom he “served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee.” 5 C.F.R. § 2635.502(b)(iv).

⁹⁵ EPA’s failure to undertake this practice is shown by its inability to produce any evidence that it did so. On April 7, 2017, the California Attorney General made a request to EPA under the Freedom of Information Act for records pertaining to EPA’s efforts to ensure that Administrator Pruitt complies with federal ethics regulations.

Ex. B7: Letter from Timothy E. Sullivan, Deputy Attorney General, California Attorney General’s Office, to National Freedom of Information Officer, EPA (Apr. 7, 2017), https://oag.ca.gov/system/files/attachments/press_releases/FOIA%20Letter%20to%20EPA.pdf. Because EPA failed to respond to the request, California was forced to sue EPA in U.S. District Court for the District of Columbia on August 11, 2017. *See Ex. B11*: Complaint, *California v. EPA*, No. 1:17-cv-01626 (D.D.C. Aug. 11, 2017). Pursuant to a stipulated schedule, on November 15, 2017, EPA produced all records in its possession pertaining to eighteen subcategories of requested records. That production consisted of only seven documents. EPA’s final response to the below requests demonstrated that it did not possess any of the following records:

7. Impartiality Determinations (including any determinations under 5 C.F.R. § 2635.502) regarding Scott Pruitt’s authorization or ability to participate as Administrator in an activity or decision.
8. Requests by Scott Pruitt to any EPA employee for an Impartiality Determination (including any determination under 5 C.F.R. § 2635.502).
10. Documents reviewed by EPA ethics officials in evaluating an Impartiality Determination (or other determination under 5 C.F.R. § 2635.502) regarding Scott Pruitt.
11. Notices of disqualification and disqualification statements required by 5 C.F.R. § 2635.502(e) regarding Scott Pruitt.

EPA will not complete its production of records related to other subcategories until May 7, 2018, well after the comment period for the proposed CPP repeal closes on January 16, 2018.

⁹⁶ Ex. C14: Robin Bravender, *A specialist in Greek drama is killing the climate rule*, E&E News Climatewire (Sept. 11, 2017), <https://www.eenews.net/stories/1060060183>.

⁹⁷ Ex. B8: Memorandum from E. Scott Pruitt, EPA Administrator, to Acting Assistant Administrators, et al., My Ethics Obligations (May 4, 2017), *available at* <https://foiaonline.regulations.gov/foia/action/public/view/record?objectId=090004d2812efc2b&fromSearch=true> (original version; memorandum updated May 17, 2017 (Ex. B9)). When this conflict was pointed out to him by Senators during his confirmation process, Administrator Pruitt responded similarly that he did not understand federal

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While it is generally true that the obligation to seek prior ethics authorization applies in the case of a “particular matter involving specific parties,” and that rulemakings of general applicability are usually not treated as a “particular matter involving specific parties,” the general rule instructing all federal employees to avoid the appearance of impropriety in carrying out their official duties still applies:

Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

5 C.F.R. § 2635.101(b)(14). Moreover, the ethics regulations specify that involvement in matters that do not involve “specific parties,” such as most rulemakings, may still require the employee first to obtain proper ethics authorization when there is a reasonable question as to whether participation “would raise a question regarding his impartiality.” 5 C.F.R. § 2635.502(a)(2).⁹⁸ In such a circumstance, the employee must seek authorization before participating in the matter and cannot participate without such authorization. *Id.* (stating that the employee should use the same process to determine whether to participate as would apply to the other conflicts described in that section).⁹⁹

As discussed in Section I, *supra*, the record overwhelmingly shows that Administrator Pruitt has already made up his mind and cannot impartially determine whether it is appropriate to repeal the CPP. Reasonable people can and have questioned Administrator Pruitt’s ability to be

ethics regulations on recusal to apply to regulatory rulemakings of general applicability. *See Ex. A93*: Questions for the Record 118 (response to Sen. Markey questions 15, 16), 120 (Markey 21), 226 (response to Sen. Whitehouse question 88) (full document available at https://www.epw.senate.gov/public/_cache/files/6d95005c-bd1a-4779-af7e-bc831db6866a/scott-pruitt-qfr-responses-01.18.2017.pdf).

⁹⁸ The preamble to the Office of Government Ethics’ proposed rule introducing this provision (which was adopted in the final rule), explains that even apart from “particular matters involving specific parties,” an employee is expected to use the ethics authorization process when an appearance problem arises: “Notwithstanding the section’s use of this concept [specific parties] and its focus on specified relationships, questions about an employee’s impartiality can arise from any number of interests or relationships an employee might have and *in connection with his or her participation in matters that do not necessarily involve specific parties*. Proposed § 2635.502 therefore provides that *an employee should use the process set forth in that section when circumstances other than those specifically described raise questions about his or her impartiality in the performance of official duties*.” Standards of Ethical Conduct for Employees of the Executive Branch, Proposed Rule, 56 Fed. Reg. 33,778, 33,786 (July 23, 1991) (emphasis added); *see also Ex. B1*: Memorandum from Robert I. Cusick, Director, U.S. Office of Government Ethics, to Designated Agency Ethics Officials, “Particular Matter Involving Specific Parties,” “Particular Matter,” and “Matter,” No. DO-06-029 (Oct. 4, 2006) at 7, n.9 (“[A]n agency may require an employee to recuse from particular matters that do not involve specific parties, based on the concern that the employee’s impartiality reasonably may be questioned under the circumstances.”), [https://www2.oge.gov/Web/OGEL.nsf/0/C10C6B23AC67F74685257E96005FBDD7/\\$FILE/do-06-02_9.pdf](https://www2.oge.gov/Web/OGEL.nsf/0/C10C6B23AC67F74685257E96005FBDD7/$FILE/do-06-02_9.pdf).

⁹⁹ The procedure to be followed to resolve issues described in 5 C.F.R. § 2635.502 is found in subsection (d). As a result of that procedure, “Unless the employee is authorized to participate in the matter [by the agency designee], an employee shall not participate in a particular matter involving specific parties when . . . the role of a person with whom he has a covered relationship[] is likely to raise a question in the mind of a reasonable person about his impartiality. Disqualification is accomplished by not participating in the matter.” 5 C.F.R. § 2635.502(e).

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impartial as to rulemaking on the rules he sought to overturn in his previous job.¹⁰⁰ And publicly available information showing his history of advocating on behalf of and fundraising from industries that have opposed the CPP and other EPA regulations exacerbates the appearance of lack of impartiality he created through his own statements and actions.¹⁰¹ In view of these circumstances, it was arbitrary and capricious for EPA not to go through the process described in 40 C.F.R. § 2635.502(d) to determine whether Administrator Pruitt should have been disqualified from the CPP repeal rulemaking.

Second, EPA's error is so serious and related to matters of such relevance to the CPP repeal that there is a substantial likelihood that it will affect any final rule undoing the CPP. It is important to the integrity of this rulemaking process that Administrator Pruitt not have participated, as his involvement tainted what is supposed to be an objective and fair decision making process. Indeed, avoiding after-the-fact repercussions of a conflicted employee's involvement in a matter was one of the reasons why the Office of Government Ethics promulgated the regulation in 5 C.F.R. § 2635.502(a)(2). As it explained:

[E]mployees have long been obligated to act impartially and to avoid even the appearance of loss of impartiality. However, they have not been provided a specific mechanism to resolve difficult issues of whether, in particular circumstances, a possible appearance of loss of impartiality is so significant that it should disqualify them from participation in particular matters. The proposed rule would provide employees with *a means to ensure that their conduct will not be found, as a matter of hindsight, to have been improper*.¹⁰²

Because EPA failed to undertake proper ethics review and disqualification procedures in the face of Administrator Pruitt's obvious appearance of lack of impartiality, any final rule repealing the CPP will likely be invalidated. EPA should withdraw its proposal.

* * *

Administrator Pruitt has already made up his mind that the CPP must be repealed. In light of his past conduct and his statements that the CPP is invalid as a matter of law and should not be implemented, Administrator Pruitt has already prejudged the outcome of the current administrative process to determine whether it should be repealed. His participation to date and his continued participation in this rulemaking proceeding is therefore a violation of due process and principles of fair rulemaking. *Ass'n of Nat'l Advertisers, Inc. v. FTC*, 627 F.2d at 1170,

¹⁰⁰ See, e.g., Ex. B6: Letter from 30 U.S. Senators to Scott Pruitt, Attorney General of Oklahoma (Feb. 16, 2017) ("[A]s EPA Administrator, even if you were recused from participating in decision-making on the litigation itself, you may attempt to use your authority to direct EPA personnel to change EPA regulations to accomplish exactly the same outcome your lawsuits sought to accomplish. Such an action would be a clear attempt to bypass the spirit of the conflict of interest regulations."), <https://www.wvden.senate.gov/download/?id=4F2F7979-432B-4046-98C3-6EFFFFE2DE627&download=1>.

¹⁰¹ See, e.g., Alex Guillén & Esther Whieldon, *Energy executives, secretive nonprofit raise money to back Pruitt*, Politico (Jan. 6, 2017), <https://www.politico.com/story/2017/01/scott-pruitt-epa-nonprofit-backers-233306>.

¹⁰² Standards of Ethical Conduct for Employees of the Executive Branch, Proposed Rule, 56 Fed. Reg. 33,778, 33,786 (July 23, 1991) (emphasis added).

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1174. Because of this, any resulting rule repealing the CPP should be struck down on the ground that it is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” or “contrary to constitutional right, power, privilege, or immunity.” 42 U.S.C. § 7607(d)(9)(A), (B); 5 U.S.C. § 706(2)(A), (B). EPA must therefore withdraw its proposed rule repealing the CPP.

Sincerely,

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Enclosures: Exhibits A1-A120
Exhibits B1-B12
Exhibits C1-C17

cc: Kevin S. Minoli, Designated Agency Ethics Official,
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Message

From: Harlow, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B5A9A34E31FC4FE6B2BEADDDA2AFFA44-HARLOW, DAV]
Sent: 1/8/2018 2:38:54 PM
To: Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]; Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clin]
CC: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Watkins, Erica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=13f4969d64f849f1b583efeb476fa9bf-Watkins, Erica]; Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
Subject: RE: Attendance at the 2018 North American International Auto Show and reception/Dinner

Emily,

I'm happy to follow Justina's recommendation in this regard, if that approach would ultimately be easiest/most convenient for all concerned.

David S. Harlow
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From: Atkinson, Emily
Sent: Monday, January 8, 2018 9:04 AM
To: Harlow, David <harlow.david@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Woods, Clint <woods.clint@epa.gov>
Cc: Lewis, Josh <Lewis.Josh@epa.gov>; Watkins, Erica <Watkins.Erica@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Attendance at the 2018 North American International Auto Show and reception/Dinner
Importance: High

Hi Bill, David, Mandy and Clint,

Please review the options outlined below and let me know by COB today how you would like for Justina to complete your ethics forms for the lunch and reception/dinner at next week's Detroit Auto Show.

At the bottom of Justina's email you will see her recommendation is highlighted.

And OTAQ is working now to confirm the cost of the lunch – it is somewhere between \$18 - \$24.

Thanks.

Emily

Emily Atkinson
 Management Analyst/Office Manager
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 Email: atkinson.emily@epa.gov

From: Fugh, Justina

Sent: Friday, January 05, 2018 10:43 PM

To: Watkins, Erica <Watkins.Erica@epa.gov>

Cc: Atkinson, Emily <Atkinson.Emily@epa.gov>; Christian, Pamela <Christian.Pamela@epa.gov>; OGC Ethics <OGC_Ethics@epa.gov>

Subject: RE: Attendance at the 2018 North American International Auto Show and reception/Dinner

Hi there,

For the upcoming Detroit Auto show, you once again have a mix of employees attending, some of whom will be in travel status while others will not. Set forth below is the ethics analysis for each of the gifts that you identified. Please note that the decisions depended on the employee's type of appointment and whether or not s/he will be in travel status or not.

| ANTICIPATED GIFT | SPONSORED BY: | VALUE | ETHICS DETERMINATION |
|---|--|---|--|
| Press Preview Day – Tuesday January 16, 2018. | Detroit Auto Dealers Association (not a federally registered lobbyist) | \$18 for ticket | Both career and non career employees may accept this gift. The donor is not a federally registered lobbyist, and the gift is less than \$20. This gift DOES NOT include the lunch, which is sponsored by another entity. |
| Lunch on press preview day | Association of Global Automobile Makers (is a federally registered lobbyist) | Unknown. OTAQ needs to find out how much this lunch will be per person. | <p>POLITICAL APPOINTEES</p> <ul style="list-style-type: none"> Option 1 – OGC/Ethics does an ethics travel form for each political to accept this lunch. We will need to know the value of the meal AND the political appointee cannot also claim per diem on his/her voucher for this meal; or Option 2 – each political appointee pays out of pocket for |

| | | | |
|--|---|------|--|
| | | | <p>the meal and then can claim per diem on the voucher.</p> <p>CAREER EMPLOYEES</p> <ul style="list-style-type: none"> • If in travel status, then OGC/Ethics will do an ethics travel form to allow them to accept the lunch. • The Cobo Arena is 40.5 miles from Ann Arbor, so any OTAQ/AA employees will NOT be in travel status. For them, OGC/Ethics will have to consider whether we can call just the lunch a widely attended gathering. We'll consider that once we know how much the lunch is. |
| Reception/Dinner at 6:30 P.M. at the Wright & Co Restaurant 1500 Woodward Avenue Detroit, MI 48226 | Alliance of Automobile manufacturers (is a federally registered lobbyist) | \$45 | <p>POLITICAL APPOINTEES</p> <ul style="list-style-type: none"> • Option 1 – OGC/Ethics does an ethics travel form for each political to accept this lunch. We will need to know the value of the meal AND the political appointee cannot also claim per diem on his/her voucher for this meal; or • Option 2 – each political appointee pays out of pocket for the meal and then can claim per diem on the voucher. <p>CAREER EMPLOYEES</p> <ul style="list-style-type: none"> • In this instance, the gift of free attendance is offered to because of their official position. In analyzing the situation, OGC/Ethics determines that this event is a widely attended gathering (WAG). There will be more than 100 people present representing a diversity of views represented, and there is an opportunity for the exchange of ideas. In order to utilize this gift exception, OGC/Ethics must also make a written determination that we believe your attendance is in the Agency's interest. We do, in fact, conclude that there is an |

| | | | |
|--|--|--|---|
| | | | Agency interest in their attendance. No career employee will have to pay for the dinner, but if they are from Ann Arbor, then they will be personally responsible for paying for any parking and mileage costs out of pocket. They will not be able to seek local travel reimbursement for this dinner. |
|--|--|--|---|

I am assuming that it'll be easier for the politicals if OGC/Ethics uses the ethics travel form to accept the meals from the lobbyists. But if we do, then Emily has to be sure to advise the travel preparers not to claim per diem for those meals! And because I don't know the value of the lunch, I didn't do all of the ethics travel forms yet. I can do them all at the same time, once I know the value of the lunch.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Watkins, Erica

Sent: Wednesday, January 03, 2018 10:41 AM

To: ethics <ethics@epa.gov>

Cc: Fugh, Justina <Fugh.Justina@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>; Christian, Pamela <Christian.Pamela@epa.gov>

Subject: Fwd: Attendance at the 2018 North American International Auto Show and reception/Dinner

Good Morning Ethics Team

I am just writing to check in on the status of this ethics review request

Thanks

Erica

Sent from my iPhone

Begin forwarded message:

From: "Watkins, Erica" <Watkins.Erica@epa.gov>

Date: December 18, 2017 at 10:12:44 AM EST

To: ethics <ethics@epa.gov>

Cc: "Fugh, Justina" <Fugh.Justina@epa.gov>, "Christian, Pamela" <Christian.Pamela@epa.gov>

Subject: Attendance at the 2018 North American International Auto Show and reception/Dinner

Good Morning Ethics team

I am submitting a request for 4 political appointees and 5 career staff to attend the 2018 North American International Auto Show press day and the reception/Dinner.

The following are the details:

Attendees:

- Bill Wehrum – AA will be in travel status
- Mandy Gunasekara, Principle Deputy Administrator OAR will be in travel status
- David Harlow – counselor to the AA will be in travel status
- Clint Woods – Deputy Assistant Administrator OAR will be in travel Status
- Christopher Grundler – OTAQ Office Director
- Leila H Cook – OTAQ Associate Office Director
- Karl Simon – Director Transportation and Climate Division, OTAQ will be in travel status
- David Haugen, Director testing and Advanced technology Division, OTAQ
- Bill Charmley, Director, Assessment and Standards Division OTAQ

Dates:

Press Preview Day – Tuesday January 16, 2018, 7:00 A.M. – 7 P.M.

Events:

- Preview of Auto Show during press Day – This is a free event
- Lunch Provided during Press Day
- Reception/Dinner at 6:30 P.M. at the Wright & Co Restaurant 1500 Woodward Avenue Detroit, MI 48226 – value of the dinner is \$45
- Free tickets to the Auto show for each attendee at Press Preview Day – estimated cost of the pass is \$18

Sponsorship:

- Press Day is organized by the organizers of the Auto Show itself – Detroit Auto Dealers Association (they provide the free pass to each attendee)
- Lunch at Press day is being provided by Global Automakers
- Reception/Dinner is being sponsored by the Alliance of Automobile manufacturers

I am requesting ethics approval for the following:

- Attendance of the Free press preview day and acceptance of the Auto show ticket valued at \$18 sponsored by the Detroit Auto dealers Association
- Acceptance of the lunch provided during the free press day which is sponsored by Global Automakers
- Acceptance of the Reception/Dinner

I have attached information you provided to OTAQ in the past regarding the attendance of this event. We will have Karl Simon fill out the ethics travel form for the event.

During Justina's visit to Ann Arbor she thought it would best to have her handle the travel ethics forms for the political appointees and I would inform Emily Atkinson of this.

Thanks in advance for your assistance

Erica

Erica Watkins

Immediate Office Room C186
Office of Transportation and Air Quality
Ph:734-214-4415
Cell: 734-646-3830

Message

From: Harlow, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B5A9A34E31FC4FE6B2BEADDDA2AFFA44-HARLOW, DAV]
Sent: 11/17/2017 6:02:58 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
CC: Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
Subject: RE: Follow Up Question

Finally, as I had earlier promised, I pass along to you now certain additions to the list of those former clients for whom I did work during either 2015, 2016, or 2017. That is, this is in addition to the entities listed in part 4 of my OGE-278:

1. DTE Energy Company (*i.e.*, the amount of time I recorded to them during the specified period amounted to less than the \$5,000 OGE-278 threshold).

2. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

3. The Virginia State Bar. This was a *pro bono* client, my only such client during the specified period. For clarity's sake, I would note that this is *not* the "Virginia Bar Association," which is a voluntary organization. Rather, the Virginia State Bar is the outfit authorized under the auspices of, I believe, the Supreme Court of Virginia, which outfit (among other things) is responsible for administering the Virginia Bar exam and for licensing new attorneys in the Commonwealth of Virginia.

That's it! Thank you.

David S. Harlow
Senior Counsel
Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K
1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233

Harlow.David@epa.gov

From: Fugh, Justina
Sent: Friday, November 17, 2017 12:38 PM
To: Harlow, David <harlow.david@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Follow Up Question

Hi,
Okay, I'll look at your edits later today or this weekend. Thanks!
Best,
Justina

PS – I had lunch with Geoff Wilcox yesterday, who is an attorney in OGC's air and radiation law office. While walking over to the restaurant, we ran into Charles Ingebretson (who used to be the EPA Chief of Staff). Seems that all three of you worked at Hunton and Williams back in the day. Small world!

From: Harlow, David
Sent: Friday, November 17, 2017 11:30 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Follow Up Question

Justina,

On a related matter, I have now completed my revisions to the OGE-278. I believe those revisions are responsive to all of the comments you had on my initial submission.

Second, I will be sending to you a little later today a supplement to the list of clients (*i.e.*, which I previously identified in the OGE-278) for whom I did *any* work in the years 2015 through 2017. As you will see, there are only a very few additions.

Thank you.

David S. Harlow
Senior Counsel
Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K
1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

From: Fugh, Justina
Sent: Friday, November 17, 2017 9:38 AM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>
Cc: Harlow, David <harlow.david@epa.gov>
Subject: RE: Follow Up Question

Hi there,
I have loads of time today – no scheduled meetings so far! – but am teleworking as I wait anxiously for the plumber to rescue me from a leaking water heater. So if you are willing to do this by skype or over the phone today, I'm in.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Wehrum, Bill
Sent: Friday, November 17, 2017 8:09 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Harlow, David <harlow.david@epa.gov>
Subject: Follow Up Question

Justina – Do you have a few minutes today to follow up on our ethics discussion? I want to make sure I get everything nailed down. I'm copying David because he might be interested in joining us. Thanks.

Message

From: Harlow, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B5A9A34E31FC4FE6B2BEADDDA2AFFA44-HARLOW, DAV]
Sent: 11/17/2017 1:10:52 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
Subject: RE: Follow Up Question

Yes, I'd be pleased to sit in/listen in if such discussion does take place at some point today.

David S. Harlow
Senior Counsel
Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K
1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

From: Wehrum, Bill
Sent: Friday, November 17, 2017 8:09 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Harlow, David <harlow.david@epa.gov>
Subject: Follow Up Question

Justina – Do you have a few minutes today to follow up on our ethics discussion? I want to make sure I get everything nailed down. I'm copying David because he might be interested in joining us. Thanks.

Message

From: Harlow, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B5A9A34E31FC4FE6B2BEADDDA2AFFA44-HARLOW, DAV]
Sent: 11/16/2017 3:45:40 AM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
Subject: Re: Recent Clients

Thanks. Today got away from me, and tomorrow, Thursday, Bill and I are taking a "road trip."

So ... Friday!

Sent from my iPhone

On Nov 15, 2017, at 9:30 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi David,
 We will be happy to receive your stuff whenever you can.
 Best,
 Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Harlow, David
Sent: Wednesday, November 15, 2017 2:20 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Recent Clients

Justina,

If I may poach on Bill's email – as I'd been meaning to send you one myself, regarding the status of my OGE-278 revisions – I'll be providing you as well a similar (but much shorter) list as soon as I can make time to produce it. My list will essentially be the same as that reflected on my OGE-278, with something like three additions (*e.g.*, pro bono clients and those for which I did *de minimis* – < \$5,000 – work over the course of the reporting period.

Meanwhile, I *hope* to have the revisions to the OGE-278 done today. I've started; just haven't quite finished.

Thanks.

David S. Harlow
Senior Counsel
Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K
1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

From: Wehrum, Bill
Sent: Wednesday, November 15, 2017 2:02 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Harlow, David <harlow.david@epa.gov>
Subject: Recent Clients

Justina – Here is a list of all clients to which I billed time in the 24 months preceding my EPA start date. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Also, attached is a list of all pending cases in which I have made an appearance. The only other particular matter in which I was involved at the time of my move to EPA involved settlement negotiations between EPA/DOJ and Orion Corporation related to alleged NSR violations at Orion's four domestic carbon black manufacturing plants. I represented Evonik Corporation, which was the prior owner of the four facilities. Evonik is not a party to the potential settlement. I was involved to defend Evonik's potential contractual liability to Orion (i.e., the stock purchase agreement between Orion and Evonik included indemnification provisions that likely will be invoked by Orion if/when the matter is resolved with the government).

AGRIUM INC AND AGRIUM U.S. INC & NU-WEST
AMERICAN FOREST & PAPER ASSOCIATION
AMERICAN FUEL & PETROCHEMICAL MFRS
AMERICAN PETROLEUM INSTITUTE
B10 LITIGATION COALITION
BRICK INDUSTRY ASSOCIATION
CEMEX USA, INC.
CHAMPION POWER EQUIPMENT, INC.
CHEMICAL SAFETY ADVOCACY GROUP (CSAG)

CHEVRON CORPORATION
DIAGEO
DOMINION RESOURCES SERVICES, INC.
DUKE ENERGY CORPORATION
ENBRIDGE INC.
EVONIK CORPORATION
EXXONMOBIL CORPORATION
FLINT HILLS RESOURCES, LP
GAS PROCESSORS ASSOCIATION
GENERAL ELECTRIC COMPANY
GEORGIA PACIFIC LLC
KINDER MORGAN, INC.
KOCH COMPANIES PUBLIC SECTOR, LLC
KOCH INDUSTRIES, INC.
LEHIGH HANSON, INC.
LOWE'S COMPANIES, INC.
NATIONAL STONE, SAND & GRAVEL ASSN

Deliberative Process / Ex. 5

PFIZER, INC.
PHILLIPS 66
PORTLAND CEMENT ASSOCIATION
PRINOTH LTD.
SALT RIVER PROJECT

Deliberative Process / Ex. 5

SUNFLOWER ELECTRIC POWER CORP.
TILE COUNCIL OF NORTH AMERICA, INC.
UTILITY AIR REGULATORY GROUP (UARG)
UTILITY WATER ACT GROUP
WHITACRE GREER COMPANY

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 1/2/2018 5:41:30 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
Subject: RE: AFPM request for a meeting
Flag: Follow up

Thanks to you both for the responses.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Josh

From: Fugh, Justina
Sent: Tuesday, January 02, 2018 10:51 AM
To: Griffo, Shannon <Griffo.Shannon@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>
Subject: RE: AFPM request for a meeting

Deliberative Process / Ex. 5

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Griffo, Shannon
Sent: Tuesday, December 26, 2017 2:15 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: AFPM request for a meeting

Hi Josh,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Let us know if you have any other questions.

Thanks,
Shannon

Shannon Griffo
Ethics Attorney
Office of General Counsel, Ethics
U.S. Environmental Protection Agency
(202) 564-7061
Griffo.Shannon@epa.gov

From: Lewis, Josh
Sent: Friday, December 22, 2017 1:26 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: AFPM request for a meeting

Deliberative Process / Ex. 5

Josh

From: Fugh, Justina
Sent: Friday, December 08, 2017 10:41 PM
To: Griffo, Shannon <Griffo.Shannon@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>
Subject: RE: updated recusal statement from OGC/Ethics

Yeah, I ended up being insanely busy today (

Personal Matters / Ex. 6

Personal Matters / Ex. 6

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Griffo, Shannon
Sent: Friday, December 08, 2017 2:18 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: updated recusal statement from OGC/Ethics

Hi Josh,

We may have some comments on the one page summary, but we will circle back with you shortly on that.

I'll be signing off for the day around 3:00. I don't know Justina's schedule for the rest of the afternoon, but I think she has a few meetings. Heads up that I'm teleworking Monday (you can reach me at my office line) and in on Tuesday. Justina is out on travel starting at 1:00 on Monday and will return on Wednesday.

I'll respond to your other meeting request email now.

Thanks,
Shannon

Shannon Griffo
Ethics Attorney
Office of General Counsel, Ethics
U.S. Environmental Protection Agency
(202) 564-7061
Griffo.Shannon@epa.gov

From: Lewis, Josh
Sent: Friday, December 08, 2017 12:47 PM
To: Griffo, Shannon <Griffo.Shannon@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: updated recusal statement from OGC/Ethics

I don't have any additional comments on the updated statement. But I did want to talk through the "Screening Arrangement" section using a live example (copied and pasted below). Can we talk later this afternoon (after 2:30) or Monday about this?

Josh
564-2095

From: Wehrum, Bill
Sent: Wednesday, December 06, 2017 7:41 AM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: FW: Meeting Request

From: Wehrum, Bill
Sent: Wednesday, December 6, 2017 7:40 AM
To: 'Richard Moskowitz' <RMoskowitz@afpm.org>
Subject: RE: Meeting Request

Hi Rich. Happy to meet. I'll send this along to my scheduling folks. They will reach out to you to find a suitable time.

From: Richard Moskowitz [<mailto:RMoskowitz@afpm.org>]
Sent: Wednesday, December 6, 2017 7:38 AM

To: Wehrum, Bill <Wehrum.Bill@epa.gov>

Subject: Meeting Request

Good morning Bill,

I hope you're settling in nicely. AFPM would like to schedule a meeting with you and your team to discuss state ZEV mandates. Would you please reply to this email with some times that work for you and your team?

Thanks,

-Rich

Richard Moskowitz
General Counsel

American
Fuel & Petrochemical
Manufacturers
1667 K Street NW
Suite 700
Washington, DC 20006
202.552.8474

rmoskowitz@afpm.org

Learn more about AFPM at afpm.org

CONFIDENTIALITY NOTICE: This electronic message contains information from the American Fuel & Petrochemical Manufacturers that may be confidential or privileged. The information is intended solely for the use of the individual(s) or entity(ies) named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or use of the contents of this message is prohibited. If you have received this e-mail in error, please notify us immediately by telephone at (202) 457-0480 or by reply e-mail and permanently delete this e-mail, any attachments, and all copies thereof.

Message

From: Minoli, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C9C0070D651A4625AC20258369F9B050-KMINOLI]
Sent: 9/10/2018 6:38:55 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
Subject: Memo
Attachments: **Deliberative Process / Ex. 5**

Justina- Attached is a clean version and a redline version. Please let me know what you think. Thanks! Kevin

Kevin S. Minoli

Principal Deputy General Counsel
& Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8064

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 9/10/2018 4:26:48 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
CC: DeLuca, Isabel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0b021c30cbee4637a7c7ca683e5e044a-IDELUCA]
Subject: Request for Bill Wehrum to speak at the Fall 2018 meeting of ACCCI'S MESH Committee
Attachments: Event Form OAR AA-ACCCI.DOCX; Fall 2018 MESH Agenda - Draft.doc

Justina and Shannon,

Bill has been asked to speak at the American Coke and Coal Chemicals Institute (ACCCI) Fall meeting. (More background in the attached). Below you'll see the list of companies likely to participate. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Thanks
 Josh
 564 2095

From: David Ailor [<mailto:dailor@accci.org>]
Sent: Friday, September 07, 2018 3:24 PM
To: DeLuca, Isabel <DeLuca.Isabel@epa.gov>
Subject: RE: REQUEST FOR YOU TO SPEAK ON THE MORNING OF THURSDAY, OCTOBER 11 AT THE FALL 2018 MEETING OF ACCCI'S MESH COMMITTEE

The companies I know to be attending/participating as of now are:

- ABC Coke
- AK Steel
- DTE-EES
- ERP Compliant Coke
- USS
- Coopers Creek Chemical Corp.
- Koppers
- Lone Star Specialties

Also, Is 900 am to 1000 am (as opposed to 915 am to 1015 am) a possibility? No worries if it's not. DCA

David C. Ailor, P.E.
 President
 American Coke and Coal Chemicals Institute

25 Massachusetts Avenue, N.W.
Suite 800
Washington, D.C. 20001
Phone: 703-795-3541
eFax.: 866-422-7794
dailor@accci.org
www.accci.org

| |
|------------------------|
| Event Information Form |
|------------------------|

This form has been designed to assist in planning participation in events and activities.
This is not a confirmation of attendance.

Basic Background

| | |
|---|--|
| Name of Event | <i>Fall 2018 Meeting of ACCCI's "Manufacturing, Environmental, and Safety and Health" (MESH) Committee</i> |
| Sponsoring Organization | <i>American Coke and Coal Chemicals Institute (ACCCI)</i> |
| Date of Event | <i>Thursday, October 11, 2018</i> |
| Time of Event | <i>"Speaker Session" Lasting from 7:30 am to 1:00 pm EDT on October 11, 2018, That Will Kickoff the Fall 2018 Meeting of ACCCI's MESH Committee, with a One-Hour Time Slot for the Assistant Administrator at His Choice of Time</i> |
| Expected time of remarks or participation by EPA official | <i>45-Minute Presentation, followed by 10 to 15 Minutes of Q&A</i> |
| Location (please include city/town and street address) | <i>Law Offices of ACCCI's Clean Air Act (CAA) Counsel Pillsbury Winthrop Shaw Pittman (PWSP) (1200 Seventeenth Street, NW, Washington, DC 20036-3006)</i> |
| Directions to the event (if appropriate, please also include relevant information about parking, the specific building, and best entrance to use) | |
| Where to meet POC | <i>Front (Ground-Level) Lobby of PWSP Law Offices</i> |

Event Description and Role of the EPA official

| | |
|---|---|
| Brief description or outline of the event | <i>Semiannual Meeting of ACCCI's MESH Committee during which the Committee is Updated on Federal Environmental, Employee Safety/Health and HR Issues of Interest/Concern to ACCCI's Coke Producer and Tar Refiner Member Companies</i> |
| Brochure, invitation and/or other event material(s) | <i>See Draft Agenda Provided with This Form</i> |
| Agenda and order of speakers and biography/information of other speakers | <i>See Draft Agenda Provided with This Form</i> |
| Name of person introducing EPA official | <i>David C. Ailor, ACCCI President</i> |
| Basic information about the role of the EPA official at the event. (For example, will they serve as a keynote speaker? Participate on a panel? Take part in a press conference? Tour a facility?) | <i>Updating Those Present on Federal Environmental Issues of Interest/Concern to ACCCI's Coke Producer and Tar Refiner Member Companies, including EPA's Clean Power Plan under the Clean Air Act (CAA); EPA's NAAQS Standards, Their Stringency and Implementation Issues Associated with Them; EPA's Residual Risk Policies under the CAA; EPA/U.S. Army Corps of Engineers' "Waters of the U.S." (WOTUS) Rulemakings; EPA's Rulemakings to Implement TSCA Reform Legislation Enacted by Congress in 2016; a Petition that the Public Employees for Environmental Responsibility (PEER) Filed with EPA to Lower the Upper Limit of the RCRA Corrosivity Characteristic from pH 12.5 to pH</i> |

| | |
|--|--|
| | <i>11.5; EPA's CERCLA Financial Assurance Plans Insofar as the "Coal Products Manufacturing" Industry; EPA's Plans in Terms of "Cooperative Federalism;" and, EPA's Plans Insofar as a "Coal Tar" Provision in an August 16, 2016, Settlement Agreement between EPA, ENGOs and Industry that Concluded Litigation Filed by Several ENGOs over the Multi-Sector General Permit (MSGP) that EPA Issued on June 16, 2015, for Stormwater Discharges from Industrial Sources</i> |
| If the EPA official is a featured speaker, which topic(s) should they address and how long? | <i>Yes - 45-Minute Presentation, followed by 10 to 15 Minutes of Q&A on Federal Environmental Issues of Interest/Concern to ACCCI's Coke Producer and Tar Refiner Member Companies, including EPA's Clean Power Plan under the Clean Air Act (CAA); EPA's NAAQS Standards, Their Stringency and Implementation Issues Associated with Them; EPA's Residual Risk Policies under the CAA; EPA/U.S. Army Corps of Engineers' "Waters of the U.S." (WOTUS) Rulemakings; EPA's Rulemakings to Implement TSCA Reform Legislation Enacted by Congress in 2016; a Petition that the Public Employees for Environmental Responsibility (PEER) Filed with EPA to Lower the Upper Limit of the RCRA Corrosivity Characteristic from pH 12.5 to pH 11.5; EPA's CERCLA Financial Assurance Plans Insofar as the "Coal Products Manufacturing" Industry; EPA's Plans in Terms of "Cooperative Federalism;" and, EPA's Plans Insofar as a "Coal Tar" Provision in an August 16, 2016, Settlement Agreement between EPA, ENGOs and Industry that Concluded Litigation Filed by Several ENGOs over the Multi-Sector General Permit (MSGP) that EPA Issued on June 16, 2015, for Stormwater Discharges from Industrial Sources</i> |
| What rules would the audience like to hear about? | See Above |
| Will there be time for Q&A? If so, who will be moderating? | <i>Yes – about 15 Minutes, with ACCCI President David C. Ailor Moderating</i> |
| Do you have a sense of the types of questions that may be asked? | <i>Yes – General Questions About the Status of EPA's Plans for the Federal Environmental Issues of Interest/Concern to ACCCI's Coke Producer and Tar Refiner Member Companies (See Above)</i> |
| Recommendations on the use of visuals/PowerPoint. Should the EPA official plan on using a PowerPoint Presentation? | <i>At the Discretion of the Speaker. A PowerPoint Projector Will Be Available.</i> |
| What is the physical layout of the room (e.g. size, and format of the interaction; podium, seated in armchair dialogue, or at a table, etc.) | Open "U," with a Speaker Podium on the Open Side of the "U" |

About the Audience

| | |
|---|---|
| Please tell us about the make-up of the audience for the event: | <i>Officials from ACCCI's Coke Producer and Tar Refiner Member Companies, Whose Focus Includes Issues Ranging from Environmental, to Employee Safety/Health, HR, Coke Quality and Operational Matters</i> |
|---|---|

| | |
|---|---|
| Expected number in attendance at the event | <i>Between 20 and 30 Company Officials</i> |
| Will it be largely members of your organization? | Yes |
| Will others be in attendance? If so, who will be at the event? (General public, Businesspeople, Educators, Families, Students – what grade level, Children – how old) | <i>Potentially – Speakers from Other Federal Agencies Present During the “Speaker Session” (e.g., DOL/OSHA), ACCCI CAA Counsel PWSP, and Staff of One to Two Other “Sister” Associations to ACCCI (i.e., the American Iron and Steel Institute, Pavement Coatings Technology Council)</i> |
| Others? (Please describe) | No |
| Is the event open to press? | No |

Contact Information

| | |
|-------------------------------------|---|
| Your name: | <i>David C. Ailor, ACCCI President</i> |
| Telephone Number: | <input type="text" value="Personal Phone / Ex. 6"/> (Cell) |
| Mailing Address: | <i>25 Massachusetts Avenue, N.W. Suite 800 Washington, D.C. 20001</i> |
| E-Mail Address: | <i>dailor@accci.org</i> |
| Cell Phone Number: | <input type="text" value="Personal Phone / Ex. 6"/> |
| Fax Number: | <i>202-318-8772</i> |
| Best way to reach you at the event? | Cell Phone |

EPA Contact Person

Emily Atkinson, Administrative Speech Coordinator: 202-564-1850

John Millett, Communications Director: 202-564-2903

AMERICAN COKE AND COAL CHEMICALS INSTITUTE

FALL 2018 MEETING OF THE
ACCCI MANUFACTURING, ENVIRONMENTAL,
AND SAFETY AND HEALTH (MESH) COMMITTEE

Thursday, October 11 – Friday, October 12, 2018

Law Offices of Pillsbury Winthrop Shaw Pittman
1200 Seventeenth Street, NW
Washington, DC 20036-3006

* * * * *

DRAFT AGENDA

THURSDAY, OCTOBER 11

- **7:00 AM EDT: HOT BUFFET BREAKFAST @ PILLSBURY WINTHROP SHAW PITTMAN'S FIRST FLOOR CONFERENCE CENTER**

- I. **PRESENTATIONS BY INVITED SPEAKERS (7:30 AM – 1:00 PM EDT, INCLUDING A GROUP LUNCHEON FROM 12:00 NOON TO 1:00 PM EDT)**
 - A. Presentation/Discussion — “NAAQS Update” (Mr. Joe Stanko, Esq., Hunton & Williams) (7:30 AM – 8:00 AM EDT)
 - B. Presentation/Discussion — “Clean Air Act Update” (Mr. Jeff Knight, Esq., Pillsbury Winthrop Shaw Pittman) (8:00 AM - 9:00 AM EDT)

 - **9:00 AM – 9:15 AM EDT: BREAK**

 - C. Presentation/Discussion — “EPA Update” () (9:15 AM – 10:15 AM EDT)
 - D. Presentation/Discussion — “DOL HR Update” () (10:15 AM – 11:00 AM EDT)
 - E. Presentation/Discussion — “DOL OSHA Update” () (11:00 AM – 11:45 AM EDT)

 - 11:45 AM – 12:00 NOON EDT: BREAK**

 - 12:00 NOON – 1:00 PM EDT: GROUP LUNCHEON**

 - F. Presentation/Discussion — “PCTC Update” (Dr. Anne LeHuray, Pavement Coatings Technology Council (PCTC)) (12:15 PM - 1:00 PM EDT)

Agenda for the Fall 2018 Meeting of the ACCCI MESH Committee
Page [PAGE]

II. CALL-TO-ORDER OF AND INITIAL BUSINESS FOR THE FALL 2018 MEETING OF THE ACCCI MESH COMMITTEE @ PILLSBURY WINTHROP SHAW PITTMAN'S FIRST FLOOR CONFERENCE CENTER (FIRST FLOOR) (1:00 PM EDT)

- A. CALL-TO-ORDER — Don Wiggins (ERP Compliant Coke), Chairman - MESH Committee
- B. Introductions
- C. Initial Committee Business
 - 1. Antitrust Reminder [p. 3]
 - 2. Date/Location/Format of the Next Meeting
 - 3. Recap of Recent Meetings of ACCCI's Board
 - 4. Overview of Meeting Schedule
 - 5. Other Issues [pp. 4-6]

III. MEETING OF MESH ENVIRONMENTAL SUBCOMMITTEE (1:15 PM¹ - 2:45 PM EDT)

- A. CALL-TO-ORDER OF MESH ENVIRONMENTAL SUBCOMMITTEE MEETING (1:15 PM EDT) — Brenna Harden (DTE-EES), Chairman – MESH Environmental Committee
- B. Roundtable Discussion on the Day's Environmental Presentations
- C. Update on Other Environmental Issues David Ailor/Other Subcommittee Members
- C. Roundtable Discussion (Inspections, Permitting, Projects, *Etc.*)
- D. Other Issues

2:45 PM – 3:00 PM EDT: BREAK

IV. MEETING OF MESH SAFETY AND HEALTH SUBCOMMITTEE (3:00 PM¹ – 4:30 PM EDT)

- A. CALL-TO-ORDER OF MESH SAFETY AND HEALTH SUBCOMMITTEE MEETING (3:00 PM EDT) — Terry Wagaman (DTE-EES), Chairman - MESH Safety and Health Subcommittee

¹ The call-to-order time shown is approximate. Should the previous session adjourn earlier than expected, the call-to-order time for this session will be advanced accordingly.

Agenda for the Fall 2018 Meeting of the ACCCI MESH Committee

Page [PAGE]

B. Roundtable Discussion on the Morning's DOL-OSHA Update

C. Update on Safety/Health Issues

Terry Wagaman/David Ailor

[Wagaman Presentation]

D. "EES' Coke Battery Safety Culture"

Terry Wagaman

[Wagaman Presentation]

E. Roundtable Discussion

- Recent OSHA Inspections, Citations, Incidents and Appeals
- Recent Significant Lost Time Accidents and Near Misses

F. Other Issues

V. MEETING OF MESH QUALITY SUBCOMMITTEE (4:30 PM¹ – 5:00 PM EDT)

A. CALL-TO-ORDER OF MESH SAFETY AND HEALTH SUBCOMMITTEE MEETING (4:30 PM EDT) — Jeff McCord (ABC Coke), Chairman - MESH Quality Subcommittee

B. ASTM Developments **[McCord Presentation]**

C. Other Issues

THURSDAY NIGHT GROUP DINNER**@ THE PALM DC****(, N.W., Washington, D.C. 20036, Tel.: 202-)**

- 6:15 PM: Meet in Lobby of the St. Gregory Luxury Hotel & Suites, 2033 M Street, N.W., Washington, D.C. 20036-3305)
- 6:20 PM: Depart for restaurant on foot
- 6:30 PM: Cocktails
- 7:00 PM: Dinner

FRIDAY, OCTOBER 12

- **7:00 AM EST: HOT BUFFET BREAKFAST @ PILLSBURY WINTHROP SHAW PITTMAN**

¹ The call-to-order time shown is approximate. Should the previous session adjourn earlier than expected, the call-to-order time for this session will be advanced accordingly.

Agenda for the Fall 2018 Meeting of the ACCCI MESH Committee
Page [PAGE]

VI. MEETING OF MESH HUMAN RESOURCES SUBCOMMITTEE (7:30 AM¹ – 9:00 AM EST)

- A. CALL-TO-ORDER OF MESH HUMAN RESOURCES SUBCOMMITTEE MEETING (7:30 AM EDT) — MESH Committee Chairman Don Wiggins (ERP Compliant Coke) for (Vacant) Chairman of MESH Human Resources Subcommittee
- B. Roundtable Discussion on Yesterday's DOL HR Update
- C. Update/Discussion on Other HR Issues
- D. Roundtable Discussion (Union Issues, Employee Policies, *Etc.*)
- E. Other Issues

9:00 AM – 9:15 AM EDT: BREAK

VII. MEETING OF THE MESH MANUFACTURING SUBCOMMITTEE (9:15 AM¹ – 10:45 AM EDT)

- A. CALL-TO-ORDER OF MESH MANUFACTURING SUBCOMMITTEE (9:15 AM EDT) — Joe Clute (DTE-EES), Chairman – MESH Manufacturing Subcommittee
- B. Roundtable Discussion
 - Projects, Maintenance, Repairs
 - Machinery Issues
 - Instrumentation Issues
 - Operating Practices
 - Refractories, Materials
- C. Other Issues

VIII. OTHER BUSINESS - MESH Committee (10:45 AM¹ – 11:00 AM EDT)

IX. ADJOURNMENT - Meeting of MESH Committee (by 11:00 AM EDT)

¹ The call-to-order time shown is approximate. Should the previous session adjourn earlier than expected, the call-to-order time for this session will be advanced accordingly.

Message

From: Justina Fugh [Fugh.Justina@epamail.epa.gov]
Sent: 11/15/2017 12:18:17 AM
To: Bill Wehrum [Wehrum.Bill@epamail.epa.gov]
CC: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
Subject: New Employee Ethics Training -- Certificate of Completion

Hello Bill -- Thank you for completing the training. A link to your course completion certificate is below.

<Notes://DCOGCLN1/85257480006B696D/9F15AD3F2CDAC43185256D35004D1BB6/7C0B49BCB290BD51852581D90001A578>

Regards,
OGC Ethics Staff

* * * This is an electronically generated message, please do not reply to it. * * *

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 9/27/2018 2:17:23 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
CC: Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]; Clarke, Victoria [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Clarke, Victoria]
Subject: RE: a little help, please
Attachments: image2018-09-29-103140.pdf

See attached...does this work?

From: Fugh, Justina
Sent: Monday, September 24, 2018 5:12 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>; Clarke, Victoria <clarke.victoria@epa.gov>
Subject: a little help, please

Hi Josh,

Your friends in the Ethics Law Office need a little help from you, please. Attached is something called an "ethics compliance letter" that Bill Wehrum signed for the Office of Government Ethics. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Thanks in advance,
Justina

Justina Fugh | Director, Ethics Law Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

U.S. OFFICE OF GOVERNMENT ETHICS
 Certification of Ethics Agreement Compliance
 (June 2017 version)

| CERTIFICATION OF ETHICS AGREEMENT COMPLIANCE Senate Confirmed Presidential Appointee | | |
|--|--|--|
| 1. Appointee's Information | a. Appointee's Name: | to be completed by OGE William L. Wehrum |
| | b. Position Title: | to be completed by OGE Assistant Administrator for the Office of Air and Radiation |
| | c. Agency: | to be completed by OGE U.S. Environmental Protection Agency |
| | d. Date Ethics Agreement Signed: | to be completed by OGE August 28, 2017 |
| | e. Date Confirmed: | to be completed by OGE November 9, 2017 |
| | f. Due Date for Certification of Ethics Agreement Compliance: | to be completed by OGE February 14, 2018 |
| 2. Resignations | I completed all of the resignations indicated in my ethics agreement before I assumed the duties of my current government position. | <input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A |
| 3. Divestitures | a. I have completed all of the divestitures indicated in my ethics agreement. I also understand that I may not repurchase these assets during my appointment without OGE's prior approval. | <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A |
| | b. I have filed a period transaction report, or periodic transaction reports, (OGE Form 278-T) to disclose the completion of these agreed upon divestitures. | <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A Filing Date(s) of OGE Form 278-T Report(s): |
| 4. Managed Accounts | If I have a managed account or use the services of an investment professional, I have notified the manager or professional of the limitations indicated in my ethics agreement. In addition, I am continuing to monitor purchases. | <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A |
| 5. Interim Recusals | I complied with my interim recusal obligations pending the divestitures required by my ethics agreement. | <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A |

THIS CERTIFICATION WILL BE POSTED FOR PUBLIC VIEWING ON OGE'S WEBSITE. 1

U.S. OFFICE OF GOVERNMENT ETHICS
 Certification of Ethics Agreement Compliance
 (June 2017 version)

William L. Wehrum

| | | |
|--|--|--|
| <p>6.</p> <p>Recusals</p> <p>(Note: These factual statements describe the appointee's current status. They are not intended to modify ethics agreement commitments or create new recusal obligations.)</p> | <p>a. I am recusing from particular matters in which I know I have a <u>personal or imputed</u> financial interest directly and predictably affected by the matter, unless I have received a waiver or qualify for a regulatory exemption.</p> | <p><input type="radio"/> Yes <input checked="" type="radio"/> No <input checked="" type="radio"/> N/A</p> |
| | <p>b. I am recusing from particular matters in which any former employer or client I served in the past year is a party or represents a party, unless I have been authorized under 5 C.F.R. § 2635.502(d).</p> | <p><input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p> |
| | <p>c. I am recusing from particular matters in which any former employer or client I served in the two years prior to my appointment is a party or represents a party, unless I have received a waiver under Exec. Order 13770.</p> | <p><input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p> |
| <p>7.</p> <p>Waivers and Authorizations</p> | <p>a. I received a waiver pursuant to 18 U.S.C. § 208.</p> <p>If yes, indicate the date of the waiver and indicate the financial interest covered by the waiver.</p> | <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p> <p>Date:</p> <p>Financial interest:</p> |
| | <p>b. I received a waiver pursuant to Executive Order 13770.</p> <p>If yes, indicate the date of the waiver and the subject of the waiver (i.e., applicable paragraph of the ethics pledge, parties, particular matters, specific issue areas, as applicable).</p> | <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p> <p>Date:</p> <p>Subject:</p> |
| | <p>c. I received an authorization pursuant to 5 C.F.R. § 2635.502(d).</p> <p>If yes, indicate date of authorization and identify the covered person(s) as to whom you have been authorized (e.g., former employer, former client, spouse's employer, spouse's current client, etc.).</p> | <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p> <p>Date:</p> <p>Covered person(s):</p> |
| | <p>d. I received a waiver pursuant to 5 C.F.R. § 2635.503(e).</p> <p>If yes, indicate the date of the waiver and identify the former employer or payer.</p> | <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p> <p>Date:</p> <p>Former employer or payer:</p> |

THIS CERTIFICATION WILL BE POSTED FOR PUBLIC VIEWING ON OGE'S WEBSITE. 2

U.S. OFFICE OF GOVERNMENT ETHICS
 Certification of Ethics Agreement Compliance
 (June 2017 version)

William L. Wehrum

| | | | |
|--|--|---|--|
| <p>8.</p> <p>Payments, Accelerations, or Divestitures Required to be Completed Prior to Entering Government Service</p> | <p>Mark this box if not applicable:</p> <p><input type="checkbox"/></p> | <p>a. If I committed that I would forfeit a financial interest or payment, unless it was received or accelerated prior to my assumption of the duties of the government position:</p> | <p><input checked="" type="radio"/> I received it (or it was accelerated) <u>prior to my assumption of the duties of the position.</u></p> <p><input type="radio"/> I received it (or it was accelerated) <u>after my assumption of the duties of the position.</u></p> <p><input type="radio"/> I forfeited it.</p> |
| <p>9.</p> <p>Requirements for Regular Appointees</p> | <p>I have completed my initial ethics briefing, pursuant to 5 C.F.R. § 2638.305.</p> <p>If you are a member of a law enforcement agency, you must also complete a training course on 18 U.S.C. § 8793.</p> | <p><input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p> | |
| <p>Requirements for Regular Appointees</p> | <p>I have signed the ethics pledge pursuant to Executive Order 13770.</p> <p>If you are a member of a law enforcement agency, you must also sign the pledge under 18 U.S.C. § 8793.</p> | <p><input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p> | |
| <p>10.</p> <p>Additional Ethics Agreement Requirements</p> | <p>to be completed by OGE:</p> | <p>to be completed by appointee:</p> <p>I am complying with these requirements as described in the adjacent box.</p> <p><input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A</p> | |
| <p>11.</p> <p>Comments of Appointee</p> | <p>I answered "N/A" to No. 6 because I have no existing conflict and I do not expect to have any in the future, so this question does not apply to my situation.</p> <p><i>W. L. Wehrum</i> 9.27.18</p> | | |
| <p>Any intentionally false or misleading statement or response provided in this certification is a violation of law punishable by a fine or imprisonment, or both, under 18 U.S.C. § 1001.</p> | | | |
| <p>I certify that the information I have provided is complete and accurate.</p> | <p>Appointee's Signature:</p> <p><i>W. L. Wehrum</i></p> | <p>Date:</p> <p>12-7-17</p> | |

THIS CERTIFICATION WILL BE POSTED FOR PUBLIC VIEWING ON OGE'S WEBSITE. 3

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 9/26/2018 7:05:07 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
CC: DeLuca, Isabel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0b021c30cbee4637a7c7ca683e5e044a-IDELUCA]
Subject: Ethics check: Crowell Moring invite for Bill Wehrum
Attachments: CM Association Contacts.pdf; Event Form OAR AA.DOCX

Justina and Shannon,

Byron Brown at Crowell Moring is pulling together an event in October (2nd attachment) and he's asking for Bill to participate on a panel (other panelists are TBD).

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks for taking a look.

Josh

| |
|------------------------|
| Event Information Form |
|------------------------|

This form has been designed to assist in planning participation in events and activities.
This is not a confirmation of attendance.

Basic Background

| | |
|---|--|
| Name of Event | Working title: Panel Discussion for DC Trade Associations on EPA's Regulatory Reform Agenda and Permit Streamlining Activities |
| Sponsoring Organization | Crowell & Moring, LLP |
| Date of Event | Flexible: Oct. 22, 23, 24, or 25 |
| Time of Event | 8 am to 9:30 am |
| Expected time of remarks or participation by EPA official | 8-8:30 am: breakfast & networking; 8:30-9:30 am panel discussion |
| Location (please include city/town and street address) | Crowell & Moring offices, 1001 Pennsylvania Ave., NW |
| Directions to the event (if appropriate, please also include relevant information about parking, the specific building, and best entrance to use) | One block east on Pennsylvania Avenue. |
| Where to meet POC | Security desk in main lobby on first floor |

Event Description and Role of the EPA official

| | |
|---|--|
| Brief description or outline of the event | Event is a moderated panel discussion. Introductions by moderator, panelist remarks, moderator questions, audience Q&A as time permits. |
| Brochure, invitation and/or other event material(s) | None |
| Agenda and order of speakers and biography/information of other speakers | Breakfast & networking from 8 to 8:30 am; panel discussion starts at 8:30 am. Introductions from 8:30-8:35 am; each panelist expected to give 10-15 minutes of remarks; moderator will ask a couple of questions; followed by Q&A with the audience. Expect to invite one other EPA official, possibly one other government official from another agency such as DOI or FERC for panel of 2-3 speakers total. |
| Name of person introducing EPA official | Byron Brown, Crowell & Moring, LLP |
| Basic information about the role of the EPA official at the event. (For example, will they serve as a keynote speaker? Participate on a panel? Take part in a press conference? Tour a facility?) | Participate in panel discussion and moderated Q&A session. |
| If the EPA official is a featured speaker, which topic(s) should they address and how long? | EPA's Clean Air Act regulatory reforms (including ACE, SAFE Vehicles) and NSR/PSD permitting reform. |
| What rules would the audience like to hear about? | See above. |
| Will there be time for Q&A? If so, who will be | Byron Brown, Crowell & Moring, LLP |

| | |
|--|---|
| moderating? | |
| Do you have a sense of the types of questions that may be asked? | A mix of legal and policy, probably with a focus on timing and impacts to regulated industries. |
| Recommendations on the use of visuals/PowerPoint. Should the EPA official plan on using a PowerPoint Presentation? | No visuals or handouts expected. |
| What is the physical layout of the room (e.g. size, and format of the interaction; podium, seated in armchair dialogue, or at a table, etc.) | Small elevated stage at front of room, with chair and tables for panelists to sit at. |

About the Audience

| | |
|---|--|
| Please tell us about the make-up of the audience for the event: | Representatives from DC trade associations. Not member companies or organizations. |
| Expected number in attendance at the event | 50-100 |
| Will it be largely members of your organization? | 10-15 from Crowell & Moring, LLP |
| Will others be in attendance? If so, who will be at the event? (General public, Businesspeople, Educators, Families, Students – what grade level, Children – how old) | No. |
| Others? (Please describe) | |
| Is the event open to press? | No. Guests must RSVP and are screened at security desk. |

Contact Information

| | |
|-------------------------------------|--|
| Your name: | Byron Brown |
| Telephone Number: | 202-624-2546 |
| Mailing Address: | Crowell & Moring, LLP 1001 Pennsylvania Ave., NW Washington, DC 20004-2595 |
| E-Mail Address: | bbrown@crowell.com |
| Cell Phone Number: | Personal Phone / Ex. 6 |
| Fax Number: | |
| Best way to reach you at the event? | Cell/email |

EPA Contact Person

Emily Atkinson, Administrative Speech Coordinator: 202-564-1850

John Millett, Communications Director: 202-564-2903

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 11/14/2017 3:20:06 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
CC: Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]; Loving, Shanita [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=439ce9c2d2104080a1b5908d3402bf20-Loving, Shanita]
Subject: RE: Ethics briefing for Bill Wehrum

OK great. We'll get a calendar invite out for 4-5 pm today. Bill was sworn in yesterday.

Josh

From: Fugh, Justina
Sent: Tuesday, November 14, 2017 9:58 AM
To: Lewis, Josh <Lewis.Josh@epa.gov>
Cc: Atkinson, Emily <Atkinson.Emily@epa.gov>; Loving, Shanita <Loving.Shanita@epa.gov>
Subject: RE: Ethics briefing for Bill Wehrum

Hi –
 I can do 4 to 5 pm today. Just so you know, we will need a full hour because I have to go over the Standards of Ethical Conduct, the federal conflict of interest statutes, the Trump Ethics Pledge and bar rules. We will also need to start working on his recusal statement. When was he sworn in?
 Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Lewis, Josh
Sent: Tuesday, November 14, 2017 9:48 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Atkinson, Emily <Atkinson.Emily@epa.gov>; Loving, Shanita <Loving.Shanita@epa.gov>
Subject: Ethics briefing for Bill Wehrum

Hi Justina,

Are you available between 3:30-5:30 today to meet with Bill Wehrum here in 5400? If today isn't good, let's find a time tomorrow that works. Thanks.

Josh Lewis
 Chief of Staff
 EPA/Office of Air and Radiation
 Office: 202 564 2095

Cell: 202 329 2291

Message

From: Wehrum, William L. [wwehrum@hunton.com]
Sent: 9/21/2017 10:00:01 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
Subject: RE: the ELI dinner on October 18

Thanks Justina. I admire your optimism. I hope I am there by the 18th, but am not holding my breath.

From: Fugh, Justina [mailto:Fugh.Justina@epa.gov]
Sent: Thursday, September 21, 2017 5:54 PM
To: Wehrum, William L.
Subject: the ELI dinner on October 18

Hi Bill,

I understand from ELI that you may be attending their annual dinner. The only thing to worry about is if you become an EPA employee before October 18th. If so, then I'll have to advise you that you should not attend the event using the Hunton and Williams ticket. Instead, if you are an EPA employee at that point, then I expect that ELI will comp you a ticket so that you can still go (after I write an ethics determination) but you can't be seated at the Hunton and Williams table.

Just a stray thought but one that could cause some consternation if you're an EPA employee on October 18th.
Best,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 8/30/2018 12:54:49 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
CC: Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
Subject: RE: Invitation to ELI Annual Dinner

Ok thank you. Makes total sense to me.

From: Fugh, Justina
Sent: Wednesday, August 29, 2018 5:17 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Invitation to ELI Annual Dinner

Hi Josh,

Deliberative Process / Ex. 5

Justina

Justina Fugh | Director, Ethics Law Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Lewis, Josh
Sent: Wednesday, August 29, 2018 3:49 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Invitation to ELI Annual Dinner

Got it, thank you.

From: Fugh, Justina
Sent: Wednesday, August 29, 2018 2:45 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Invitation to ELI Annual Dinner

Hi Josh,

Deliberative Process / Ex. 5

Justina

Justina Fugh | Director, Ethics Law Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Lewis, Josh
Sent: Wednesday, August 29, 2018 10:55 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: FW: Invitation to ELI Annual Dinner

See below.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks
Josh
564 2095

From: ROBERT.WYMAN@lw.com [<mailto:ROBERT.WYMAN@lw.com>]
Sent: Wednesday, August 22, 2018 4:48 PM
To: Rakosnik, Delaney <rakosnik.delaney@epa.gov>
Subject: Invitation to ELI Annual Dinner

Delaney – as I mentioned by phone, I would like to invite Bill to join me and other Latham & Watkins LLP colleagues at the upcoming ELI annual dinner if he is interested and has not already committed himself to another table. The details are noted below:

When: Wednesday, October 23
Where: Omni Shoreham Hotel, 2500 Calvert Street NW, Washington, DC

Reception: 5:30 p.m.
Dinner: 7:00 p.m.

As Bill is undoubtedly aware, this event is an annual awards event. This year's award will go to the previous EPA Administrator, Lisa Jackson.

Thank you for your assistance.

Bob

Robert A. Wyman, Jr.
LATHAM & WATKINS LLP
Email: robert.wyman@lw.com

355 South Grand Avenue
Los Angeles, CA 90071-1560
Direct: +1.213.891.8346

555 Eleventh Street, NW
Washington, DC 20004-1304
Direct: +1.202.654.7119

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Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 8/23/2018 9:46:02 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
CC: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
Subject: Re: Invitation for William Wehrum to Keynote AFPM Environmental Conference

Thank you.

On Aug 23, 2018, at 4:50 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Josh,

Deliberative Process / Ex. 5

Justina

Justina Fugh | Director, Ethics Law Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Lewis, Josh
Sent: Thursday, August 23, 2018 12:11 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Invitation for William Wehrum to Keynote AFPM Environmental Conference

Justina,

Please see below. **Deliberative Process / Ex. 5**
Deliberative Process / Ex. 5 AFPM's website has more information
on the conference: <https://www2.afpm.org/forms/meeting/Microsite/ENV18,0>

I can also ask David at AFPM for additional information, if needed.

On Jul 16, 2018, at 12:37 PM, David Friedman <DFriedman@afpm.org> wrote:

AFPM would like to invite EPA Office of Air and Radiation Assistant Administrator William Wehrum to keynote our annual Environmental Conference which will be held this year at the San Antonio Marriott Rivercenter Hotel on October 15-16. The conference will include 350-400 environmental professionals from the refining and petrochemical industries. The keynote speaking slot is scheduled for the morning of Monday, October 15, but we can make adjustments if necessary. Please let me know if you have any questions and we look forward to Mr. Wehrum's presentation at the conference.

David N. Friedman
Vice President
Regulatory Affairs

American
Fuel & Petrochemical
Manufacturers
1800 M Street NW
Suite 900 North
Washington, DC 20036
202.457.0480 office
202.844.5508 direct
202.457.0486 fax

dfriedman@afpm.org

CONFIDENTIALITY NOTICE: This electronic message contains information from the American Fuel & Petrochemical Manufacturers that may be confidential or privileged. The information is intended solely for the use of the individual(s) or entity(ies) named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or use of the contents of this message is prohibited. If you have received this e-mail in error, please notify us immediately by telephone at (202) 457-0480 or by reply e-mail and permanently delete this e-mail, any attachments, and all copies thereof.

Message

From: Wehrum, William L. [wwehrums@hunton.com]
Sent: 10/2/2017 5:36:15 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
CC: Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: RE: revised five day letter
Attachments: img-X021228-0001-c.pdf

Justina – Here's a signed copy of the letter.

From: Fugh, Justina [mailto:Fugh.Justina@epa.gov]
Sent: Monday, October 02, 2017 1:28 AM
To: Wehrum, William L.
Cc: Lyons, Troy; Minoli, Kevin
Subject: revised five day letter

Here's the draft 5-day letter reflecting today's date. Please insert the new amount and then print, sign and return the letter to me.

Thanks,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Friday, September 29, 2017 11:40 AM
To: 'Wehrum, William L.' <wwehrums@hunton.com>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: revised five day letter

Hi there,

It's time for the revised five day letter, please. Here's the new draft. We need the amount to insert. You can either insert the information in the letter yourself and then print, sign and date and return to me, or I can insert it into the letter for you.

Thanks,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

October 2, 2017

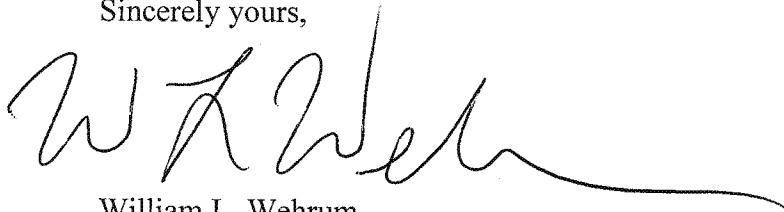
The Honorable John Barrasso
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The Ethics in Government Act of 1978, as amended, provides that Presidential nominees for a position requiring the advice and consent of the Senate shall update their public financial disclosure report with respect to any outside earned income and honoraria received through the period ending no more than five days prior to the commencement of the Senate hearing of their nomination. 5 U.S.C. app § 101(b)(1) and 5 C.F.R. § 2634.606(a).

The information on my public financial disclosure report was current as of June 2, 2017. In the intervening period, through October 2, 2017, I have received an additional \$ Personal Matters / Ex. 6 from Hunton & Williams LLP as a payment toward my partnership income for 2017. I have not received any honoraria during this time period.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'W L Wehrum', with a long horizontal flourish extending to the right.

William L. Wehrum

Message

From: Minoli, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C9C0070D651A4625AC20258369F9B050-KMINOLI]
Sent: 8/16/2018 5:51:15 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
Subject: Re: Outstanding Questions re Bill Wehrum, second of two emails. RESPONSE NEEDED BY FRIDAY at NOON.

Why don't you come by now if you have time before my 2:00.

Kevin S. Minoli
Principal Deputy General Counsel &
Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Aug 16, 2018, at 1:50 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

No. Glad to have you here!

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Minoli, Kevin
Sent: Thursday, August 16, 2018 1:47 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Outstanding Questions re Bill Wehrum, second of two emails. RESPONSE NEEDED BY FRIDAY at NOON.

Did you connect with them. I'm here now.

Kevin S. Minoli
Principal Deputy General Counsel &
Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Aug 16, 2018, at 1:15 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

I'm in the office, at my desk, all afternoon except possibly from 3:15 to 3:45. Kevin may be available this afternoon too, and I suggest we loop him in too.

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Konkus, John
Sent: Thursday, August 16, 2018 12:19 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Cc: Abboud, Michael <abboud.michael@epa.gov>; Hewitt, James <hewitt.james@epa.gov>
Subject: FW: Outstanding Questions re Bill Wehrum, second of two emails. RESPONSE NEEDED BY FRIDAY at NOON.

Matt and Justina: **Deliberative Process / Ex. 5** Deadline is noon tomorrow. Justina, what's a good time for us to connect via phone this afternoon?

From: Eric Lipton [mailto:lipton@nytimes.com]
Sent: Thursday, August 16, 2018 11:52 AM
To: Block, Molly <block.molly@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Press <Press@epa.gov>
Subject: Outstanding Questions re Bill Wehrum, second of two emails. RESPONSE NEEDED BY FRIDAY at NOON.

Hello again Molly and Bill.

Here are a few specific outstanding questions I wanted to ask based on items that have come up since I spoke with Bill back in April. I am writing them out very specifically with backup documents in a few cases so the questions are clear and easier to respond to.

1) Mr. Wehrum's calendar that we obtained via FOIA includes a Dec. 7 2017 meeting at the DC offices of Hunton, where Mr. Wehrum gave a presentation on the Clean Air Act. **See the attached materials in attachment 1.** The Trump ethics pledge says that a lawyer should not meet with former clients for two years including any "meeting or other communication relating to the performance of one's official duties with a former employer or former client, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties." How does this meeting honor that requirement? This was not a public meeting. And UARG is a former client.

2) Mr. Wehrum, before he was nominated but while his paperwork was being reviewed for the nomination, had a meeting at the EPA in June 2017 on behalf of brick manufacturers association to discuss concerns by the industry with the brick emissions rule. In October 2017, the EPA asked a federal court to "hold all proceedings in abeyance in these consolidated petitions for review" related to this case, as it was going to reconsider this rule. Is Mr. Wehrum working on this matter, in terms of the proposed policy change? And separately, he he participating in the handling of the litigation?

3) Has Mr. Wehrum signed his recusal letter. He explained to me why he had not. I just wanted to see if he has now decided to sign if. If so, I can have a copy of it please.

4) During the review of the NSR Policy memo issued on Dec. 7, 2017, I was told that Mr. Wehrum participated in a Dec. 5 2017 staff meeting (**see attachment 2**, although I know that this listing does not mention what was specifically discussed) where the matter was discussed, and where Susan Bodine among others expressed concerns about the changes, which included not "second guess" emissions projections. I had asked Bill about this general issue. I subsequently was told about this specific meeting on Dec. 5, where the matter was discussed. Why was it ok for Bill to participate in this meeting. A participant said that a copy of the memo was distributed at the meeting that had certain redactions, removing DTE's name. Is that the explanation. Welcome input.

5) I wanted to ask for Mr. Wehrum to react to criticism from some folks that the change in the "once in, always in" policy could result in a significant increase in release of harmful pollutants. Is this a fair criticism?

6) When the March 13 2018 memo was released clarifying NSR projection evaluations, Mr. Wehrum was quoted in the news release, but he decided not to go to the ceremony where several companies including Marathon and Valero were invited to mark the event. We were told that Mr. Wehrum felt he would work on the policy, as it broadly impacts regulated parties (it is not a particular matter involving specific parties) but he could not attend this event, as former clients were there and it was a private event. Any comment on that. Is that a correct reading of the events here?

7) A memo was sent to the EPA on Nov 3 2017 (**see attachment 3**) that was from a presentation that Bill gave along with Kenneth Weiss related to NSR changes the petro chemical industry wanted to see made. I read the presentation which was based on the memo that is included in this email, and I noted that several of the changes in NSR underway "project netting" and "project aggregation" and also "second guess" issues reflect priorities here. Is this anything that is bad about this correlation? Is Mr. Wehrum, in the policy revisions he has worked on, helping with these changes because it was part of an industry agenda?

8) Finally, I wanted to ask more directly here a point that emerges from these questions: Some outsiders look at the actions the EPA has taken since Mr. Wehrum was confirmed and say that Mr. Wehrum is working to benefit the interests of his former clients. What is your reaction to that assertion? Why is that a misreading of his efforts?

Thanks again for your help. Happy to clarify any of these questions.

I need a response by Noon Friday.

ERIC

Eric Lipton
The New York Times
 Washington Bureau
 202 862 0448 office
 Personal Phone / Ex 6 | mobile
lipton@nytimes.com

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 12/10/2017 4:10:04 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
CC: Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
Subject: Re: Meeting Request for Bill Wehrum

Thanks. Let's talk further on Monday.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

We can also talk briefly about the AFPM request, but that one is more straightforward.

On Dec 8, 2017, at 10:49 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Lewis, Josh
Sent: Friday, December 08, 2017 1:54 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: FW: Meeting Request for Bill Wehrum

API and member companies are coming in next Wednesday to meet with Bill. Original request and the current list of attendees below.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Outside Attendees (In Person):

- <!--[if !supportLists]--><!--[endif]-->Hilary Moffett, API
- <!--[if !supportLists]--><!--[endif]-->Stephen Higley, Marathon Petroleum
- <!--[if !supportLists]--><!--[endif]-->Dale Thanjan, Phillips 66
- <!--[if !supportLists]--><!--[endif]-->Kate Fay, Noble
- <!--[if !supportLists]--><!--[endif]-->Marni Funk, Shell
- <!--[if !supportLists]--><!--[endif]-->David van Hoogstraten, BP
- <!--[if !supportLists]--><!--[endif]-->Matt Todd, API
- <!--[if !supportLists]--><!--[endif]-->Puneet Verma, Chevron
- <!--[if !supportLists]--><!--[endif]-->Brandon Kirkham
- <!--[if !supportLists]--><!--[endif]-->Khary Cauthen, API
- <!--[if !supportLists]--><!--[endif]-->Robert Nolan, Exxon Mobil
- <!--[if !supportLists]--><!--[endif]-->Kevin Avery, ConocoPhillips
- <!--[if !supportLists]--><!--[endif]-->Howard Feldman, API
- <!--[if !supportLists]--><!--[endif]-->John Wagner, API
- <!--[if !supportLists]--><!--[endif]-->Sara Glenn, Shell
- <!--[if !supportLists]--><!--[endif]-->Rebecca Rosen, Devon

By phone:

- <!--[if !supportLists]--><!--[endif]-->Jill Cooper, Anadarko

From: Hilary Moffett [<mailto:moffetth@api.org>]

Sent: Monday, November 27, 2017 9:29 AM

To: Loving, Shanita <Loving.Shanita@epa.gov>

Cc: Atkinson, Emily <Atkinson.Emily@epa.gov>

Subject: Meeting Request for Bill Wehrum

Good Morning Shanita,

I hope this email finds you well. A group of people from API and our member companies wanted to schedule a meeting with Assistant Administrator Wehrum to discuss priorities. We have been working closely with Mandy and the team both in DC and in North Carolina on a number of air issues, and believe a meeting to touch bases on those issues would be mutually beneficial as Mr. Wehrum continues to dig into his new role. I understand that he is incredibly busy, and only ask for about 30 minutes of his time in the coming weeks.

Thanks for your consideration.

Regards,
Hilary

Hilary Moffett
Director, Federal Relations
American Petroleum Institute
202-682-8040 (desk)
Personal Phone / Ex. 6 (cell)

MoffettH@api.org

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 11/30/2017 10:57:50 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
CC: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: Re: Reminder | Please Join Us for the NAM Holiday Party

Thanks Justina.

Bill Wehrum
 Assistant Administrator
 Office of Air and Radiation
 U.S. Environmental Protection Agency
 (202) 564-7404

On Nov 30, 2017, at 5:28 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi Bill,

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Wehrum, Bill
Sent: Thursday, November 30, 2017 12:09 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Reminder | Please Join Us for the NAM Holiday Party

Hi Justina. **Deliberative Process / Ex. 5**

From: Jay Timmons [<mailto:Jay.W.Timmons@nam.org>]
Sent: Thursday, November 30, 2017 11:20 AM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>
Subject: Reminder | Please Join Us for the NAM Holiday Party

Can't see the images? [View it online.](#)



Jay Timmons and the National Association of Manufacturers invite you to the official holiday celebration for manufacturers in America. Join us to toast the people who are creating the future.

DECEMBER 14

5:00 - 8:00 P.M.

NAM HEADQUARTERS
733 10TH STREET NW, SUITE 700
WASHINGTON, DC 20001

RSVP NOW

Please RSVP by December 4

This event has been designed to meet the "reception exception" as stated by the Senate Select Ethics and House Ethics Committees. Invitation is non-transferable.

**CREATORS
WANTED**

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 11/22/2017 12:08:49 AM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
Subject: RE: Recusal Summary

Thanks Justina.

From: Fugh, Justina
Sent: Tuesday, November 21, 2017 7:08 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>
Subject: RE: Recusal Summary

Hi Bill,

Wow, you figured out the shared drive as well as your ethics rules. Shannon Griffo on my team drafted a recusal statement for you (see attached) but I thought she and I would try to meet with you next week to go over the terms. Shannon will contact Emily next week, okay? At that time, we planned to get you to sign off on the ethics agreement certification form from OGE (also attached). But, yes, you've captured your recusal situation accurately in your one-pager.

Happy Thanksgiving!
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Wehrum, Bill
Sent: Tuesday, November 21, 2017 6:59 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Recusal Summary

Justina – I want to give my front office a guide to help them understand and help implement my recusals. Attached is a one-page summary that explains the situation as I understand it. Will you please let me know if you have comments. I have not included attachments (lists of pending cases and current clients). I sent those to you last week.

Thanks for your help.

Message

From: Minoli, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C9C0070D651A4625AC20258369F9B050-KMINOLI]
Sent: 8/10/2018 12:41:35 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Keith, Jennie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=79c2d25e4dfe45ceaf788a87f714cc0f-JKEITH]
CC: Willis, Sharnett [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=97b55bdfac5e41d8aa81064dfa2cb944-Willis, Sharnett]; Dickerson, Aaron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d0440d9f06994021827e0d0119126799-Dickerson,]
Subject: Fwd: Draft Email for you to Send (please send email and the attached attachment) Thanks!

Hey Justina and Jennie- Despite moving us back a week so the Acting Adm and others (including Matt) will be there, I've continued to work with Ryan to get the email out. Last night I sent it to him as text and with all of the actual email addresses included. This morning I offered that someone would go work it through with Sharnett or Aaron. I am not in the building, so could one of you please work with them on that?

Thanks! Kevin

Kevin S. Minoli
 Principal Deputy General Counsel &
 Designated Agency Ethics Official
 Office of General Counsel
 US Environmental Protection Agency
 Main Office Line: 202-564-8040

Begin forwarded message:

From: "Jackson, Ryan" <jackson.ryan@epa.gov>
Date: August 10, 2018 at 8:28:05 AM EDT
To: "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Cc: "Willis, Sharnett" <Willis.Sharnett@epa.gov>, "Dickerson, Aaron" <dickerson.aaron@epa.gov>
Subject: RE: Draft Email for you to Send (please send email and the attached attachment) Thanks!

That would be good. Thanks.

From: Minoli, Kevin
Sent: Friday, August 10, 2018 8:06 AM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Willis, Sharnett <Willis.Sharnett@epa.gov>; Dickerson, Aaron <dickerson.aaron@epa.gov>
Subject: Re: Draft Email for you to Send (please send email and the attached attachment) Thanks!

We can send someone down to with Sharnett or Aaron this morning if you'd like.

Kevin S. Minoli
 Principal Deputy General Counsel &
 Designated Agency Ethics Official
 Office of General Counsel
 US Environmental Protection Agency
 Main Office Line: 202-564-8040

On Aug 10, 2018, at 8:04 AM, Jackson, Ryan <jackson.ryan@epa.gov> wrote:

This is fine. How do we get this set up so it can be sent out from me?

From: Minoli, Kevin

Sent: Thursday, August 9, 2018 6:35 PM

To: Jackson, Ryan <jackson.ryan@epa.gov>

Subject: Draft Email for you to Send (please send email and the attached attachment)
Thanks!

FROM: RYAN JACKSON

TO: Wheeler, Andrew <wheeler.andrew@epa.gov>; Darwin, Henry <darwin.henry@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; McIntosh, Chad <mcintosh.chad@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Wright, Peter <wright.peter@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>; Ross, David P <ross.davidp@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Dunn, Alexandra <dunn.alexandra@epa.gov>; Lopez, Peter <lopez.peter@epa.gov>; Servidio, Cosmo <servidio.cosmo@epa.gov>; Glenn, Trey <Glenn.Trey@epa.gov>; Stepp, Cathy <stepp.cathy@epa.gov>; Idsal, Anne <idsal.anne@epa.gov>; Gulliford, Jim <gulliford.jim@epa.gov>; Benevento, Douglas <benevento.douglas@epa.gov>; Stoker, Michael B. <stoker.michael@epa.gov>; Hladick, Christopher <hladick.christopher@epa.gov>

CC: Kevin Minoli, Justina Fugh, Jennie Keith

DATE: DURING THE WEEK OF August 6

SUBJECT: UPCOMING ETHICS TRAININGS

Dear Colleagues,

As mentioned during the July 19 ethics meeting with speakers from the White House, OGC/Ethics will be conducting training sessions in

August on “embedding ethics into the calendaring process.” You and your staff must take those trainings and work with your respective ethics officials to integrate ethics review into your scheduling process. Attached is a one-page summary of the effort.

Be sure to read emails from Kevin Minoli, Justina Fugh, and/or Jennie Keith of OGC/Ethics and ensure that you all receive the necessary training. I am expecting that you will all complete the training as quickly as possible.

Ryan

Kevin S. Minoli

Principal Deputy General Counsel
& Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8064

Message

From: Wehrum, William L. [wwehrums@hunton.com]
Sent: 9/8/2017 7:27:35 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Ringel, Aaron [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1654bdc951284a6d899a418a89fb0abf-Ringel, Aar]; Munoz, Charles [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ae303b61fc23433e89c844d7842c9626-Munoz, Char]
Subject: RE: all documents now sent to OGE

Thanks Justina.

From: Fugh, Justina [mailto:Fugh.Justina@epa.gov]
Sent: Friday, September 08, 2017 3:07 PM
To: Ringel, Aaron; Munoz, Charles
Cc: Wehrum, William L.
Subject: all documents now sent to OGE

Just letting you know that I have certified the nominee financial disclosure report and sent the necessary documents to the Office of Government Ethics. My part is done!

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Ringel, Aaron
Sent: Friday, September 08, 2017 2:28 PM
To: Wehrum, William L. <wwehrums@hunton.com>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: OGE Doc

Thanks!

-Aaron

From: Wehrum, William L. [mailto:wwehrums@hunton.com]
Sent: Friday, September 8, 2017 2:27 PM
To: Ringel, Aaron <ringel.aaron@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: OGE Doc

I got a new password and just signed the document.

From: Ringel, Aaron [mailto:ringel.aaron@epa.gov]
Sent: Friday, September 08, 2017 2:02 PM

To: Wehrum, William L.

Subject: OGE Doc

If you could give me a quick heads up once you certify the OGE doc it would be appreciated. We are hustling on our end to get everything out today so we'll light a fire once that step is done.

Thanks,

Aaron

Aaron E. Ringel

Deputy Associate Administrator

Office of Congressional & Intergovernmental Relations

U.S. Environmental Protection Agency

W: 202.564.4373

RingelAaron@epa.gov

Message

From: Wehrum, William L. [wwehrums@hunton.com]
Sent: 9/7/2017 10:12:48 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
Subject: RE: I understand that you will be nominated tonight (!)

Thanks Justina.

From: Fugh, Justina [mailto:Fugh.Justina@epa.gov]
Sent: Thursday, September 07, 2017 4:01 PM
To: Wehrum, William L.
Subject: I understand that you will be nominated tonight (!)

Hi,

If the happy news occurs today, then OGE will flip the switch on your financial disclosure report to make it a "nominee" report with a nomination date. When that happens, I will contact you to ask that you go into INTEGRITY to sign and submit the report. Do not make any changes to the entries! All you are doing is pushing out the nominee report so that we can move it along. You're not saying that the information is accurate as of the new signature date.

I understand that we want to get your nomination moving forward as quickly as possible, so as soon as we know you can sign the report, I'll let you know. I'll be in the office all day on Friday if you need anything.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Harlow, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B5A9A34E31FC4FE6B2BEADDDA2AFFA44-HARLOW, DAV]
Sent: 12/6/2017 12:04:19 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
Subject: RE: Follow Up Question

Justina,

I have just a few moments ago this morning submitted – I think! – my (revised) OGE-278 disclosure form. If would you would be so good as to check to see that I successfully accomplished this, and, if so, let me know in a follow-up email when you have an opportunity, I would be most appreciative.

I'm sorry for the early screw up on my part. I'd revised it back on November 17, I think it was, but must not have properly submitted it online thereafter. I trust that, as revised, the form now provides all that you need.

Thank you!

David S. Harlow
Senior Counsel
Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K
1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

From: Harlow, David
Sent: Tuesday, December 5, 2017 10:53 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Follow Up Question

Justina,

Yes, I'll do that first thing in the a.m. I thought I had (re)submitted it a few weeks ago, after I'd revised it per your instructions to include some additional information. I must have failed somehow to properly submit it. Sorry!

Sent from my iPhone

On Dec 5, 2017, at 9:27 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi David,

According to INTEGRITY, your financial disclosure report is still with you. Can you please go into INTEGRITY to find your report? Then look at the left hand menu and scroll down to the "submit report" words. Click on that, then wait for the page to load. Then scroll down the page to the attestation paragraph. Agree to whatever they want from you, and then hit the submit button. That should successfully send your report to me.

Thanks,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Harlow, David
Sent: Friday, November 17, 2017 11:30 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Follow Up Question

Justina,

On a related matter, I have now completed my revisions to the OGE-278. I believe those revisions are responsive to all of the comments you had on my initial submission.

Second, **Deliberative Process / Ex. 5**
Deliberative Process / Ex. 5
Deliberative Process / Ex. 5 As you will see,
there are only a very few additions.

Thank you.

David S. Harlow
Senior Counsel
Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K
1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

From: Fugh, Justina
Sent: Friday, November 17, 2017 9:38 AM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>

Cc: Harlow, David <harlow.david@epa.gov>

Subject: RE: Follow Up Question

Hi there,

I have loads of time today – no scheduled meetings so far! – but am teleworking as I wait anxiously for the plumber to rescue me from a leaking water heater. So if you are willing to do this by skype or over the phone today, I'm in.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Wehrum, Bill

Sent: Friday, November 17, 2017 8:09 AM

To: Fugh, Justina <Fugh.Justina@epa.gov>

Cc: Harlow, David <harlow.david@epa.gov>

Subject: Follow Up Question

Justina – Do you have a few minutes today to follow up on our ethics discussion? I want to make sure I get everything nailed down. I'm copying David because he might be interested in joining us. Thanks.

Message

From: Minoli, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C9C0070D651A4625AC20258369F9B050-KMINOLI]
Sent: 12/6/2017 5:01:41 AM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
Subject: Re: final answer from OGE -- Bill still can't go to the anniversary event

Justina-

1. Thanks for going the extra effort here. I think Bill is the type of client who will appreciate that you did so and Seeing the argument that you came up with, in case you hadn't already decided to share with him.
2. I also appreciate this email because I had totally misread your previous email on the subject as to who you were annoyed by this gave me a chance to actually read it and understand it correctly.
3. You win the award for the weeks most DC sentence:

Under DO-09-007 (which applies to Executive Order 13,770 pursuant to LA-17-03)

Kevin

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Dec 5, 2017, at 8:36 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Hi,

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308
North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004
for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina

Sent: Friday, December 01, 2017 3:57 PM

To: Minoli, Kevin <Minoli.Kevin@epa.gov>

Subject: thanks and

Deliberative Process / Ex. 5

Justina

From: Minoli, Kevin
Sent: Friday, December 01, 2017 3:46 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: Dear OGC/Ethics -- May I Attend This Holiday Party?

Looks great. One small edit:

Deliberative Process / Ex. 5

Thanks!

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Nov 30, 2017, at 2:54 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Here's the draft email

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Appointment

From: Loving, Shanita [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=439CE9C2D2104080A1B5908D3402BF20-LOVING, SHANITA]
Sent: 12/5/2017 2:59:18 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Griffio, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
Subject: General with OGC/Ethics
Location: Bill's Office, WJC-N Room 5406A
Start: 12/7/2017 7:00:00 PM
End: 12/7/2017 7:30:00 PM
Show Time As: Tentative

To: Wehrum, Bill; Fugh, Justina; Griffio, Shannon

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/30/2018 10:06:19 PM
To: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]; Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]
CC: Molina, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d19c1d68da1a4587866e1850f22a6ae5-Molina, Mic]; Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: UPDATE: how OGC/Ethics spent our day

Deliberative Process / Ex. 5

Updated recusal for Bill Wehrum

- Sent a revised draft to Bill, with a cc to Matt and Kevin

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/30/2018 9:50:04 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
CC: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]; Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: How about this version of something to sign?
Attachments: Wehrum recusal revised 7_30_18.docx

Hi Bill,

Attached is a draft recusal statement to be sent by you to the Acting Administrator

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Can you please take a look at this revised recusal and offer any comments you may have?

thanks in advance,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/30/2018 7:23:01 PM
To: Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]; Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]
CC: Molina, Michael [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d19c1d68da1a4587866e1850f22a6ae5-Molina, Mic]; Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: how OGC/Ethics spent our day
Attachments: **Deliberative Process / Ex. 5**

Hi there,
We've been following up on a few items today:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Updated recusal for Bill Wehrum

- Currently under revision for presentation to him.

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 8/1/2018 12:37:59 AM
To: Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beadda2affa44-Harlow, Dav]
Subject: some ideas for a recusal for Bill
Attachments: Wehrum recusal revised 7_30_18.docx

Hi David,

Thanks again for the lovely chat earlier today. I'm attaching the current version of a recusal for Bill's consideration.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Gosh, David, any thoughts you have will be deeply appreciated!

Cheers,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/25/2018 6:31:39 PM
To: Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]
Subject: the rule of five

Hi Matt,

Attorney Client / Ex. 5

Let's revisit the rules.

Pursuant Paragraph 6 of Executive Order 13770, political appointees are prohibited from participating in any particular matter involving specific parties in which their former employer or any former client to whom they provided services during the past two years is a party or represents a party. This recusal lasts for two years from the date that the appointee joins federal service.

For the purposes of this pledge obligation, the term "particular matters involving specific parties" is broadened to include any meetings or other communication relating to the performance of official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. The term "open to all interested parties" means five or more parties who represent a diversity of interests rather than one shared perspective. The meetings "do not have to be open to every comer, but should include a multiplicity of parties." For example, if EPA is holding a meeting with five or more stakeholders regarding a given policy or piece of legislation, then the appointee could attend that meeting "even if one of the stakeholders is a former employer or former client." See Office of Government Ethics (OGE) Advisory [DO-09-011 \(3/26/09\)](#), which applies to Exec. Order 13770 pursuant to OGE Legal Advisory [LA-17-03 \(3/20/17\)](#).

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 6/14/2018 9:35:58 PM
To: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]; Jennifer A. Dlouhy [jdlouhy1@bloomberg.net]
CC: Ross, Margaret [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38caf91847dd4f95810c1f96d918871c-Ross, Margaret]
Subject: RE: Request for copies of latest public financial disclosure report

EEK! Yes, indeed! Thanks!

From: Minoli, Kevin
Sent: Thursday, June 14, 2018 5:21 PM
To: Jennifer A. Dlouhy <jdlouhy1@bloomberg.net>; Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Ross, Margaret <Ross.Margaret@epa.gov>
Subject: RE: Request for copies of latest public financial disclosure report

Just to make sure there is no confusion, the last sentence should read: "until May 15, 2019." I think you understood that, but thought it was worth correcting in case someone reviews these emails some day.

Kevin

Hi there,

Perhaps it's useful to bear in mind that, of the PAS appointees you've mentioned, only Susan Bodine has been at EPA in the same position long enough to be filing an incumbent report. Her 2018 report is already available on the OGE website. With respect to Holly Greaves, she filed a new entrant report when she joined EPA in 2017, but later was nominated for a PAS position. Her nominee report (which is her most recent filing) is also available from OGE's website. Finally, Bill Wehrum and Andrew Wheeler only have nominee reports (again, available on the OGE website now) and will not be required to file another report until May 15, 2019 ~~2018~~.

Justina

Kevin S. Minoli

Principal Deputy General Counsel
 & Designated Agency Ethics Official
 Office of General Counsel
 US Environmental Protection Agency
 Main Office Line: 202-564-8064

From: Jennifer A. Dlouhy (BLOOMBERG/ NEWSROOM:) [<mailto:jdlohy1@bloomberg.net>]
Sent: Thursday, June 14, 2018 5:03 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>; Ross, Margaret <Ross.Margaret@epa.gov>
Subject: RE: Request for copies of latest public financial disclosure report

Thank you, that does help, especially re Greaves and Wehrum/Wheeler. Thanks.

Jennifer A. Dlouhy
jdlohy1@bloomberg.net / jendlouhyenergy@gmail.com
reporterjen@protonmail.com
Desk: 202.807.2159
Cell/Text/Signal: 202.905.3257
Twitter: @jendlouhyhc
Stories: <http://bloom.bg/23Crpvk>

From: Fugh.Justina@epa.gov At: 06/14/18 16:56:18
To: Jennifer A. Dlouhy (BLOOMBERG/ NEWSROOM:)
Cc: Minoli.Kevin@epa.gov, Ross.Margaret@epa.gov
Subject: RE: Request for copies of latest public financial disclosure report

Hi there,

Perhaps it's useful to bear in mind that, of the PAS appointees you've mentioned, only Susan Bodine has been at EPA in the same position long enough to be filing an incumbent report. Her 2018 report is already available on the OGE website. With respect to Holly Greaves, she filed a new entrant report when she joined EPA in 2017, but later was nominated for a PAS position. Her nominee report (which is her most recent filing) is also available from OGE's website. Finally, Bill Wehrum and Andrew Wheeler only have nominee reports (again, available on the OGE website now) and will not be required to file another report until May 15, 2018.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Jennifer A. Dlouhy (BLOOMBERG/ NEWSROOM:)
[mailto:jdlouhy1@bloomberg.net]
Sent: Thursday, June 14, 2018 3:46 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>; Ross, Margaret
<Ross.Margaret@epa.gov>
Subject: RE: Request for copies of latest public financial
disclosure report

Thank you, Justina, for this swift response and all of your help.

To be fair, you'd mentioned I could send one Form 201 with a list of names in a prior conversation, but since that is wonderfully accommodating by comparison to other DAEOS, I didn't trust my hearing. I know now! Thank you.

My understanding was that the OGE website versions of the reports for folks such as Susan Bodine, Holly Greaves, William Wehrum and Andrew Wheeler will not hit for quite a while -- several weeks, at the very least -- and the only way to get them close to the end of the 30-day review period (around June 15 for on-time filers) is from the agencies specifically. Will those not be released publicly by agencies or otherwise until OGE certifies them and/or makes them available on the OGE website?

Thank you,

Jen.

Jennifer A. Dlouhy
jdlouhy1@bloomberg.net / jendlouhyenergy@gmail.com
reporterjen@protonmail.com
Desk: 202.807.2159

Cell/Text/Signal: 202.905.3257
Twitter: @jendlouhyhc
Stories: <http://bloom.bg/23Crpvk>

From: Fugh.Justina@epa.gov At: 06/14/18 15:41:19

To: Jennifer A. Dlouhy (BLOOMBERG/ NEWSROOM:)
Cc: Minoli.Kevin@epa.gov, Ross.Margaret@epa.gov
Subject: RE: Request for copies of latest public financial disclosure report

Hi Jennifer,

Should you write to us again in the future, please know that you can just send us one form 201, and then just attach a list of the people whose reports you seek.

In perusing the list you sent, please note that:

- You can obtain some of the reports on the OGE website already – Susan Bodine, Holly Greaves, William Wehrum, Andrew Wheeler. EPA will not need to provide you with those reports.
- Eric Weese was not a public financial disclosure filer
- Pursuant to 5 C.F.R. § 2634.201(f), EPA Ethics granted Mr. Pruitt additional time to file his report, which is now due by August 13th. Within 30 days of receiving his report, EPA Ethics can make it available to those requestors, such as yourself, who have submitted OGE 201 requests. Please note, however, that because Mr. Pruitt is a Presidentially Appointed Senate confirmed appointee, his report will be sent to the Office of Government Ethics (OGE) for final certification. That final report will be available from the OGE website.

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Jennifer A. Dlouhy (BLOOMBERG/ NEWSROOM:)
[mailto:jdlouhy1@bloomberg.net]
Sent: Thursday, June 14, 2018 11:31 AM
To: ethics <ethics@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: Request for copies of latest public financial disclosure report

Good morning.

I'm attaching completed Form 201s seeking the most recent public financial disclosure reports for roughly two dozen EPA employees. Specifically, I'm seeking the financial disclosure reports that were due May 15, 2018 (and which may be coming publicly releasable around now). Although the completed forms request six at a time, in case it is helpful, I'm also including the full list of employees for which I'm seeking disclosures below.

I've included a request for Administrator Pruitt, though I recognize that he sought a filing extension and his form is not yet publicly releasable (and may not yet even be filed). I just wanted to file that in advance, in hopes of getting a copy as soon as it is publicly releasable. Please let me know if I should handle this another way.

Ideally I'd also receive recently filed 278-Ts -- in the past six months or so -- but I don't want to cause undue work for your office or delay the primary request here. I can complete a separate request for those, if that's preferred and they aren't automatically bundled with the disclosure reports.

I can swing by OGE or EPA headquarters at any time to pick these up or, of course, receive them by email at

jdouhy1@bloomberg.net. Please don't hesitate to call me at 202.807.2159 with any questions/requests/concerns.

I really appreciate your help on this; I know your office is very busy even without the disclosure crush this time of year.

Thank you,

Jen.

Seeking disclosures for:

Michael Abboud

Reginald Allen

Erik Baptist

Nancy Beck

Susan Bodine

Kevin Chmielewski

Henry Darwin

Samantha Dravis

Dennis Lee Forsgren

Holly Greaves

Sarah Greenwat

Amanda "Mandy" Gunasakera

Sydney Hupp

Millan Hupp

Ryan Jackson

Albert "Kell" Kelly

John Konkus

Troy Lyons

Scott Pruitt

Jeffrey Sands

Patrick Traylor

Kenneth Wagner

William Wehrum

Andrew Wheeler

Eric Weese

Jahan Wilcox

—
Jennifer A. Dlouhy
jdlouhy1@bloomberg.net / jendlouhyenergy@gmail.com
reporterjen@protonmail.com
Desk: 202.807.2159
Cell/Text/Signal: 202.905.3257
Twitter: @jendlouhyhc
Stories: <http://bloom.bg/23Crvk>

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 6/14/2018 4:24:41 PM
To: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
CC: Monson, Mahri [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fe16c321270a466c90286d60e81b292c-Mmonson]
Subject: and here are the draft congressional responses
Attachments: Carper Security Contract JF 6-14-18.docx; Pallone Rental Agreement Draft Response 6-8-18.docx; Udall Rental Agreement 6-8-18.docx; Whitehouse Wehrum Recusal 6-12-18.docx

Here you go.

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/12/2018 3:16:33 AM
To: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: that Wehrum thing
Attachments: signed final ethics agreement.pdf; Bill Wehrum recusal revised 5-30-18.docx

Kevin,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Justina

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 9/28/2018 5:55:20 PM
To: Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]
CC: Mills, Derek [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0b8b3681245c47d18908fd79db50a843-Mills, Dere]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
Subject: Re: a little help, please

Thanks so much! I'll pick it up from Carla on Monday.
Happy weekend!
Justina

Sent from my iPhone

On Sep 28, 2018, at 1:12 PM, Leopold, Matt (OGC) <Leopold.Matt@epa.gov> wrote:

Hi Justina, I have completed the revised form per your instructions and provided it to Carla to deliver to your office. Let me know if anything else is needed.

Thanks, Matt

Matthew Z. Leopold
General Counsel
U.S. Environmental Protection Agency
(202) 564-8040

From: Fugh, Justina
Sent: Thursday, September 27, 2018 3:20 PM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Cc: Mills, Derek <Mills.Derek@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: a little help, please

Hi Matt,

Your friends in the Ethics Law Office need a little help from you, please. Attached is the "ethics compliance letter" that you signed for the Office of Government Ethics. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks in advance,
Justina

Justina Fugh | Director, Ethics Law Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 1/30/2018 9:40:00 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
Subject: RE: Ethics Follow up Discussion w/ Bill

Yes, of course! It's on my list to cc you and David Harlow!

From: Lewis, Josh
Sent: Tuesday, January 30, 2018 4:36 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Ethics Follow up Discussion w/ Bill

Ok we'll find time next week. Can you cc me on what you send him in writing?

Josh

From: Fugh, Justina
Sent: Tuesday, January 30, 2018 4:32 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Ethics Follow up Discussion w/ Bill

Neither Shannon nor I will be working this Friday, so we need another time, please. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

From: Lewis, Josh
Sent: Tuesday, January 30, 2018 11:25 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: Ethics Follow up Discussion w/ Bill

Can we do a follow up discussion this Friday at 4:30? **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Josh

From: Fugh, Justina
Sent: Tuesday, January 02, 2018 10:51 AM
To: Griffo, Shannon <Griffo.Shannon@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>
Subject: RE: AFPM request for a meeting

Deliberative Process / Ex. 5

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Griffio, Shannon

Sent: Tuesday, December 26, 2017 2:15 PM

To: Lewis, Josh <Lewis.Josh@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>

Subject: RE: AFPM request for a meeting

Hi Josh,

Deliberative Process / Ex. 5

Let us know if you have any other questions.

Thanks,
Shannon

Shannon Griffio
Ethics Attorney
Office of General Counsel, Ethics
U.S. Environmental Protection Agency
(202) 564-7061
Griffio.Shannon@epa.gov

From: Lewis, Josh

Sent: Friday, December 22, 2017 1:26 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>; Griffio, Shannon <Griffio.Shannon@epa.gov>

Subject: AFPM request for a meeting

One follow up point/question on the AFPM request at the bottom of this email chain.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Josh

From: Fugh, Justina

Sent: Friday, December 08, 2017 10:41 PM

To: Griffo, Shannon <Griffo.Shannon@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>

Subject: RE: updated recusal statement from OGC/Ethics

Yeah, I ended up being insanely busy today

Personal Matters / Ex. 6

Personal Matters / Ex. 6

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Griffio, Shannon
Sent: Friday, December 08, 2017 2:18 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: updated recusal statement from OGC/Ethics

Hi Josh,

We may have some comments on the one page summary, but we will circle back with you shortly on that.

I'll be signing off for the day around 3:00. I don't know Justina's schedule for the rest of the afternoon, but I think she has a few meetings. Heads up that I'm teleworking Monday (you can reach me at my office line) and in on Tuesday. Justina is out on travel starting at 1:00 on Monday and will return on Wednesday.

I'll respond to your other meeting request email now.

Thanks,
 Shannon

Shannon Griffio
 Ethics Attorney
 Office of General Counsel, Ethics
 U.S. Environmental Protection Agency
 (202) 564-7061
Griffio.Shannon@epa.gov

From: Lewis, Josh
Sent: Friday, December 08, 2017 12:47 PM
To: Griffio, Shannon <Griffio.Shannon@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: updated recusal statement from OGC/Ethics

I don't have any additional comments on the updated statement.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Can we talk later this afternoon (after 2:30) or

Monday about this?

Josh
 564-2095

From: Wehrum, Bill
Sent: Wednesday, December 06, 2017 7:41 AM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: FW: Meeting Request

From: Wehrum, Bill
Sent: Wednesday, December 6, 2017 7:40 AM
To: 'Richard Moskowitz' <RMoskowitz@afpm.org>
Subject: RE: Meeting Request

Hi Rich. Happy to meet. I'll send this along to my scheduling folks. They will reach out to you to find a suitable time.

From: Richard Moskowitz [<mailto:RMoskowitz@afpm.org>]
Sent: Wednesday, December 6, 2017 7:38 AM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>
Subject: Meeting Request

Good morning Bill,
I hope you're settling in nicely. AFPM would like to schedule a meeting with you and your team to discuss state ZEV mandates. Would you please reply to this email with some times that work for you and your team?
Thanks,
-Rich

Richard Moskowitz
General Counsel

American
Fuel & Petrochemical
Manufacturers
1667 K Street NW
Suite 700
Washington, DC 20006
202.552.8474

rmoskowitz@afpm.org
Learn more about AFPM at afpm.org

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Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 9/27/2018 7:20:28 PM
To: Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]
CC: Mills, Derek [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0b8b3681245c47d18908fd79db50a843-Mills, Dere]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
Subject: a little help, please
Attachments: EA compliance form.pdf

Hi Matt,

Your friends in the Ethics Law Office need a little help from you, please. Attached is the "ethics compliance letter" that you signed for the Office of Government Ethics.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks in advance,
Justina

Justina Fugh | Director, Ethics Law Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Appointment

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 12/13/2017 5:14:15 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: Accepted: Follow Up with OGC/Ethics
Location: 5400

Start: 12/19/2017 7:00:00 PM
End: 12/19/2017 7:30:00 PM
Show Time As: Busy

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 12/13/2017 5:01:38 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
Subject: RE: Meeting Request for Bill Wehrum

Yes, that would be excellent! Thanks and sorry for the trouble!

From: Lewis, Josh
Sent: Wednesday, December 13, 2017 12:01 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Meeting Request for Bill Wehrum

It will be w/ Bill too. We can move to 2-2:30 that day. Is that better?

From: Fugh, Justina
Sent: Wednesday, December 13, 2017 11:55 AM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Meeting Request for Bill Wehrum

Hey Josh,
I accepted this meeting but now realize that I have a conflict. Is this meeting with just us (not Bill) and, if so, can we reschedule for a little later? I am supposed to be at an OGC managers meeting from 9 to 10:30.
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Lewis, Josh
Sent: Wednesday, December 13, 2017 9:09 AM
To: Griffo, Shannon <Griffo.Shannon@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Meeting Request for Bill Wehrum

Just put a meeting on for next Tuesday morning. Hopefully that will work.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Josh

From: Griffo, Shannon
Sent: Monday, December 11, 2017 4:15 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Meeting Request for Bill Wehrum

Josh,

Thanks for taking the time to talk with me earlier today. Once you've spoken with Bill and Justina is back from travel, let's consider setting up another meeting to continue our discussions. In the meantime, feel free to keep reaching out to us with your questions, meeting invites, etc. We appreciate your assistance!

Thanks again,
Shannon

Shannon Griffo
Ethics Attorney
Office of General Counsel, Ethics
U.S. Environmental Protection Agency
(202) 564-7061
Griffo.Shannon@epa.gov

From: Lewis, Josh
Sent: Monday, December 11, 2017 10:55 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Meeting Request for Bill Wehrum

I heard from API this morning that they "plan to cover methane, ozone, and RFS."

From: Fugh, Justina
Sent: Friday, December 08, 2017 10:50 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Meeting Request for Bill Wehrum

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Lewis, Josh

Sent: Friday, December 08, 2017 1:54 PM

To: Fugh, Justina <Fugh.Justina@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>

Subject: FW: Meeting Request for Bill Wehrum

API and member companies are coming in next Wednesday to meet with Bill. Original request and the current list of attendees below.

Deliberative Process / Ex. 5

Outside Attendees (In Person):

- Hilary Moffett, API
- Stephen Higley, Marathon Petroleum
- Dale Thanjan, Phillips 66
- Kate Fay, Noble
- Marni Funk, Shell
- David van Hoogstraten, BP
- Matt Todd, API
- Puneet Verma, Chevron
- Brandon Kirkham
- Khary Cauthen, API
- Robert Nolan, Exxon Mobil
- Kevin Avery, ConocoPhillips
- Howard Feldman, API
- John Wagner, API
- Sara Glenn, Shell
- Rebecca Rosen, Devon

By phone:

- Jill Cooper, Anadarko

From: Hilary Moffett [<mailto:moffetth@api.org>]

Sent: Monday, November 27, 2017 9:29 AM

To: Loving, Shanita <Loving.Shanita@epa.gov>

Cc: Atkinson, Emily <Atkinson.Emily@epa.gov>

Subject: Meeting Request for Bill Wehrum

Good Morning Shanita,

I hope this email finds you well. A group of people from API and our member companies wanted to schedule a meeting with Assistant Administrator Wehrum to discuss priorities. We have been working closely with Mandy and the team both in DC and in North Carolina on a number of air issues, and believe a meeting to touch bases on those issues would be mutually beneficial as Mr. Wehrum continues to dig into his new role. I understand that he is incredibly busy, and only ask for about 30 minutes of his time in the coming weeks.

Thanks for your consideration.

Regards,
Hilary

Hilary Moffett
Director, Federal Relations
American Petroleum Institute
202-682-8040 (desk)

Personal Phone / Ex. 6

 (cell)
MoffettH@api.org

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 9/10/2018 8:48:07 PM
To: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: Wehrum letter
Attachments: **Deliberative Process / Ex. 5**

Hi Kevin,

Deliberative Process / Ex. 5

Justina

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 9/10/2018 7:54:51 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
Subject: RE: what is Clint Woods' title?

Thanks!

From: Lewis, Josh
Sent: Monday, September 10, 2018 3:54 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: what is Clint Woods' title?

Yes.
Mandy is the Principal Deputy
Betsy is the Career Deputy
Clint is the Political Deputy

From: Fugh, Justina
Sent: Monday, September 10, 2018 3:52 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>
Subject: RE: what is Clint Woods' title?

Really? So like Betsy and Mandy?

From: Lewis, Josh
Sent: Monday, September 10, 2018 3:49 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: what is Clint Woods' title?

Deputy Assistant Administrator

From: Fugh, Justina
Sent: Monday, September 10, 2018 3:45 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>
Subject: what is Clint Woods' title?

Is he a "senior counsel" like David Harlow or a "senior advisor" or something else?

From: Lewis, Josh
Sent: Monday, September 10, 2018 3:32 PM
To: Griffo, Shannon <Griffo.Shannon@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Cc: DeLuca, Isabel <DeLuca.Isabel@epa.gov>
Subject: RE: Request for Bill Wehrum to speak at the Fall 2018 meeting of ACCCI'S MESH Committee

Thank you.

From: Griffo, Shannon
Sent: Monday, September 10, 2018 3:18 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Cc: DeLuca, Isabel <DeLuca.Isabel@epa.gov>
Subject: RE: Request for Bill Wehrum to speak at the Fall 2018 meeting of ACCCI'S MESH Committee

Hi Josh,

Deliberative Process / Ex. 5

Please let us know if you have any other questions.

Thanks!
Shannon

Shannon Griffo
Ethics Attorney
Office of General Counsel, Ethics
U.S. Environmental Protection Agency
(202) 564-7061
Griffo.Shannon@epa.gov

From: Lewis, Josh
Sent: Monday, September 10, 2018 12:27 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Cc: DeLuca, Isabel <DeLuca.Isabel@epa.gov>
Subject: Request for Bill Wehrum to speak at the Fall 2018 meeting of ACCCI'S MESH Committee

Justina and Shannon,

Bill has been asked to speak at the American Coke and Coal Chemicals Institute (ACCCI) Fall meeting. (More background in the attached). Below you'll see the list of companies likely to participate. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Thanks
Josh
564 2095

From: David Ailor [<mailto:dailor@accci.org>]
Sent: Friday, September 07, 2018 3:24 PM
To: DeLuca, Isabel <DeLuca.Isabel@epa.gov>

Subject: RE: REQUEST FOR YOU TO SPEAK ON THE MORNING OF THURSDAY, OCTOBER 11 AT THE FALL 2018 MEETING OF ACCCI'S MESH COMMITTEE

The companies I know to be attending/participating as of now are:

- ABC Coke
- AK Steel
- DTE-EES
- ERP Compliant Coke
- USS
- Coopers Creek Chemical Corp.
- Koppers
- Lone Star Specialties

Also, Is 900 am to 1000 am (as opposed to 915 am to 1015 am) a possibility? No worries if it's not. DCA

David C. Ailor, P.E.
President
American Coke and Coal Chemicals Institute
25 Massachusetts Avenue, N.W.
Suite 800
Washington, D.C. 20001
Phone: 703-795-3541
eFax.: 866-422-7794
dailor@accci.org
www.accci.org

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 11/15/2017 11:27:57 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: RE: Two Things

Hi,

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Wehrum, Bill
Sent: Wednesday, November 15, 2017 6:25 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Two Things

Deliberative Process / Ex. 5

From: Fugh, Justina
Sent: Wednesday, November 15, 2017 6:21 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>
Subject: RE: Two Things

Hi Bill,

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Wehrum, Bill
Sent: Wednesday, November 15, 2017 3:18 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Two Things

Hi Justina. Two things:

Deliberative Process / Ex. 5

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 9/27/2018 6:53:00 PM
To: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
CC: Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]; Ross, Margaret [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38caf91847dd4f95810c1f96d918871c-Ross, Margaret]; Monson, Mahri [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fe16c321270a466c90286d60e81b292c-Mmonson]; Packard, Elise [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6d4ad4c6abb24f54a2c8c16fa17ba0fd-Packard, El]
Subject: following up from our (last) meeting
Attachments: DAEO designation notification to OGE for Cozad.docx; DAEO designation letter for Cozad.docx

Hi Kevin,

- 1) Attached are the two letters for the Acting Administrator to sign designating David Cozad as the DAEO;

- 2)

- 3)

- 4)

Deliberative Process / Ex. 5

Justina

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 11/15/2017 12:47:22 AM
To: Wehrum, William [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: We're double checking, but ...

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 9/27/2018 5:34:02 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
CC: Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]; Clarke, Victoria [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Clarke, Victoria]
Subject: RE: a little help, please

Yes, fabulous! Thanks to you and Bill for the speedy response!

Justina Fugh | Director, Ethics Law Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Lewis, Josh
Sent: Thursday, September 27, 2018 10:17 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>; Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: a little help, please

See attached...does this work?

From: Fugh, Justina
Sent: Monday, September 24, 2018 5:12 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>; Clarke, Victoria <clarke.victoria@epa.gov>
Subject: a little help, please

Hi Josh,

Your friends in the Ethics Law Office need a little help from you, please. Attached is something called an "ethics compliance letter" that Bill Wehrum signed for the Office of Government Ethics. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks in advance,
Justina

Justina Fugh | Director, Ethics Law Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 9/4/2018 6:11:24 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
Subject: RE: Invitation to ELI Annual Dinner

Hi Josh,

Deliberative Process / Ex. 5

Justina

Justina Fugh | Director, Ethics Law Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Lewis, Josh
Sent: Tuesday, September 04, 2018 1:59 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Invitation to ELI Annual Dinner

Closing the loop on this. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

From: Fugh, Justina
Sent: Wednesday, August 29, 2018 2:45 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Subject: RE: Invitation to ELI Annual Dinner

Hi Josh,

Deliberative Process / Ex. 5

Justina

Justina Fugh | Director, Ethics Law Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Lewis, Josh

Sent: Wednesday, August 29, 2018 10:55 AM

To: Fugh, Justina <Fugh.Justina@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>

Subject: FW: Invitation to ELI Annual Dinner

See below.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks

Josh

564 2095

From: ROBERT.WYMAN@lw.com [<mailto:ROBERT.WYMAN@lw.com>]

Sent: Wednesday, August 22, 2018 4:48 PM

To: Rakosnik, Delaney <rakosnik.delaney@epa.gov>

Subject: Invitation to ELI Annual Dinner

Delaney – as I mentioned by phone, I would like to invite Bill to join me and other Latham & Watkins LLP colleagues at the upcoming ELI annual dinner if he is interested and has not already committed himself to another table. The details are noted below:

When: Wednesday, October 23
Where: Omni Shoreham Hotel, 2500 Calvert Street NW, Washington, DC

Reception: 5:30 p.m.
Dinner: 7:00 p.m.

As Bill is undoubtedly aware, this event is an annual awards event. This year's award will go to the previous EPA Administrator, Lisa Jackson.

Thank you for your assistance.

Bob

Robert A. Wyman, Jr.
LATHAM & WATKINS LLP
Email: robert.wyman@lw.com

355 South Grand Avenue
Los Angeles, CA 90071-1560
Direct: +1.213.891.8346

555 Eleventh Street, NW
Washington, DC 20004-1304
Direct: +1.202.654.7119

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Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 9/26/2018 2:44:01 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
CC: Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]; Clarke, Victoria [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Clarke, Victoria]
Subject: RE: a little help, please

Much obliged!

From: Lewis, Josh
Sent: Wednesday, September 26, 2018 9:47 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>; Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: a little help, please

Hi Justina,

Yes I can flag this for Bill. I'll likely have a chance tomorrow morning to do so.

Josh

From: Fugh, Justina
Sent: Monday, September 24, 2018 5:12 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>; Clarke, Victoria <clarke.victoria@epa.gov>
Subject: a little help, please

Hi Josh,

Your friends in the Ethics Law Office need a little help from you, please. Attached is something called an "ethics compliance letter" that Bill Wehrum signed for the Office of Government Ethics. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Thanks in advance,
Justina

Justina Fugh | Director, Ethics Law Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Appointment

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 11/14/2017 3:40:45 PM
To: Wehrum, William [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: Accepted: Ethics Briefing for Bill Wehrum
Location: Bill's office - WJC-N, Room 5406 A
Start: 11/14/2017 9:00:00 PM
End: 11/14/2017 10:00:00 PM
Show Time As: Busy

Appointment

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 12/13/2017 4:50:30 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: Accepted: Follow Up with OGC/Ethics
Location: 5400

Start: 12/19/2017 2:30:00 PM
End: 12/19/2017 3:00:00 PM
Show Time As: Busy

Appointment

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 12/1/2017 6:35:54 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
CC: Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
Subject: Accepted: General with OGC/Ethics
Location: Bill's Office, WJC-N Room 5406A

Start: 12/8/2017 4:00:00 PM
End: 12/8/2017 4:30:00 PM
Show Time As: Busy

I can come to Bill's office, but we'll call Shannon who will be working at a remote location.
Thanks for adjusting for us!

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 9/24/2018 9:12:22 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
CC: Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]; Clarke, Victoria [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Clarke, Victoria]
Subject: a little help, please
Attachments: signed EA compliance v2.pdf

Hi Josh,

Your friends in the Ethics Law Office need a little help from you, please. Attached is something called an “ethics compliance letter” that Bill Wehrum signed for the Office of Government Ethics. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Thanks in advance,
Justina

Justina Fugh | Director, Ethics Law Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

| CERTIFICATION OF ETHICS AGREEMENT COMPLIANCE Senate Confirmed Presidential Appointee | | |
|--|---|--|
| 1. Appointee's Information | a. Appointee's Name: | to be completed by OGE: William L. Wehrum |
| | b. Position Title: | to be completed by OGE: Assistant Administrator for the Office of Air and Radiation |
| | c. Agency: | to be completed by OGE: U.S. Environmental Protection Agency |
| | d. Date Ethics Agreement Signed: | to be completed by OGE: August 28, 2017 |
| | e. Date Confirmed: | to be completed by OGE: November 9, 2017 |
| | f. Due Date for Certification of Ethics Agreement Compliance: | to be completed by OGE: February 14, 2018 |
| 2. Resignations | <i>I completed all of the resignations indicated in my ethics agreement before I assumed the duties of my current government position.</i> | <input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A |
| 3. Divestitures | a. <i>I have completed all of the divestitures indicated in my ethics agreement. I also understand that I may not repurchase these assets during my appointment without OGE's prior approval.</i> | <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A |
| | b. <i>I have filed a period transaction report, or periodic transaction reports, (OGE Form 278-T) to disclose the completion of these agreed upon divestitures.</i> | <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A Filing Date(s) of OGE Form 278-T Report(s): |
| 4. Managed Accounts | <i>If I have a managed account or use the services of an investment professional, I have notified the manager or professional of the limitations indicated in my ethics agreement. In addition, I am continuing to monitor purchases.</i> | <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A |
| 5. Interim Recusals | <i>I complied with my interim recusal obligations pending the divestitures required by my ethics agreement.</i> | <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A |

THIS CERTIFICATION WILL BE POSTED FOR PUBLIC VIEWING ON OGE'S WEBSITE. 1

U.S. OFFICE OF GOVERNMENT ETHICS
 Certification of Ethics Agreement Compliance
 (June 2017 version)

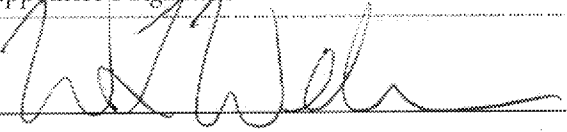
William L. Wehrum

| | | |
|---|--|--|
| <p>6. Recusals</p> <p>(Note: These factual statements describe the appointee's current status. They are not intended to modify ethics agreement commitments or create new recusal obligations.)</p> | <p>a. I am recusing from particular matters in which I know I have a personal or imputed financial interest directly and predictably affected by the matter, unless I have received a waiver or qualify for a regulatory exemption.</p> | <p><input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A</p> |
| | <p>b. I am recusing from particular matters in which any former employer or client I served in the past year is a party or represents a party, unless I have been authorized under 5 C.F.R. § 2635.502(d).</p> | <p><input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p> |
| | <p>c. I am recusing from particular matters in which any former employer or client I served in the two years prior to my appointment is a party or represents a party, unless I have received a waiver under Exec. Order 13770.</p> | <p><input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p> |
| <p>7. Waivers and Authorizations</p> | <p>a. I received a waiver pursuant to 18 U.S.C. § 208.</p> <p>If yes, indicate the date of the waiver and indicate the financial interest covered by the waiver.</p> | <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p> <p>Date:</p> <p>Financial interest:</p> |
| | <p>b. I received a waiver pursuant to Executive Order 13770.</p> <p>If yes, indicate the date of the waiver and the subject of the waiver (i.e., applicable paragraph of the ethics pledge, parties, particular matters, specific issue areas, as applicable).</p> | <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p> <p>Date:</p> <p>Subject:</p> |
| | <p>c. I received an authorization pursuant to 5 C.F.R. § 2635.502(d).</p> <p>If yes, indicate date of authorization and identify the covered person(s) as to whom you have been authorized (e.g., former employer, former client, spouse's employer, spouse's current client, etc.).</p> | <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p> <p>Date:</p> <p>Covered person(s):</p> |
| | <p>d. I received a waiver pursuant to 5 C.F.R. § 2635.503(e).</p> <p>If yes, indicate the date of the waiver and identify the former employer or payer.</p> | <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p> <p>Date:</p> <p>Former employer or payer:</p> |

THIS CERTIFICATION WILL BE POSTED FOR PUBLIC VIEWING ON OGE'S WEBSITE. 2

U.S. OFFICE OF GOVERNMENT ETHICS
 Certification of Ethics Agreement Compliance
 (June 2017 version)

William L. Wehrum

| | | | |
|--|--|---|--|
| <p>8.</p> <p>Payments, Accelerations, or Divestitures Required to be Completed Prior to Entering Government Service</p> | <p>Mark this box if not applicable:</p> <p><input type="checkbox"/></p> | <p>a. If I committed that I would forfeit a financial interest or payment, unless it was received or accelerated prior to my assumption of the duties of the government position:</p> | <p><input checked="" type="radio"/> I received it (or it was accelerated) <u>prior to</u> my assumption of the duties of the position.</p> <p><input type="radio"/> I received it (or it was accelerated) <u>after</u> my assumption of the duties of the position.</p> <p><input type="radio"/> I forfeited it.</p> |
| <p>9.</p> <p>Requirements for Regular Appointees</p> | <p>I have completed my initial ethics briefing, pursuant to 5 C.F.R. § 2638.305.</p> <p>If you are a Special Government Employee (SGE) or career Foreign Service Officer (FSO), select N/A.</p> <p>I have signed the ethics pledge pursuant to Executive Order 13770.</p> <p>If you are a SGE or career FSO or previously signed the pledge, select N/A.</p> | <p><input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p> <p><input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p> | |
| <p>10.</p> <p>Additional Ethics Agreement Requirements</p> | <p>to be completed by OGE:</p> | <p>to be completed by appointee:</p> <p>I am complying with these requirements as described in the adjacent box.</p> <p><input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A</p> | |
| <p>11.</p> <p>Comments of Appointee</p> | | | |
| <p>Any intentionally false or misleading statement or response provided in this certification is a violation of law punishable by a fine or imprisonment, or both, under 18 U.S.C. § 1001.</p> | | | |
| <p>I certify that the information I have provided is complete and accurate.</p> | <p>Appointee's Signature:</p>  | | <p>Date:</p> <p>12-7-17</p> |

THIS CERTIFICATION WILL BE POSTED FOR PUBLIC VIEWING ON OGE'S WEBSITE. 3

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 9/21/2017 9:47:08 PM
To: Wehrum, William L. [wwehrum@hunton.com]; Dave Ross [Personal Email / Ex. 6]; Dourson, Michael [Personal Email / Ex. 6]; [Personal Email / Ex. 6] Leopold, Matthew Z. [Personal Email / Ex. 6]
CC: Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]
Subject: Those five day letters

Hi there,

Thanks for getting those five-day letters done in advance of the hearing that did not occur. In anticipation of a new confirmation hearing date, you might as well resign yourself to knowing that we'll have to do it all over again. The text of the letters is ready, of course, so I'll just need you to update the amount of compensation based on the new signature date. I'll draft the new letters for you when the time comes, but we'll give you more notice this time (since now I know that SEPW wants those letters).

Best,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 8/29/2018 6:15:00 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
Subject: FW: Ethics advice concerning your invitation to the ELI dinner

Hi Josh,

I usually send out a blanket WAG determination for the ELI invitees. What happens is that ELI sends me their list of EPA invitees. Here is the okay from me for Bill Wehrum, Mandy Gunasekara and Clint Woods. I didn't see David Harlow's name on the invitation list so that's why I didn't include him.

Justina

Justina Fugh | Director, Ethics Law Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Wednesday, August 29, 2018 2:13 PM
To: Beck, Nancy <Beck.Nancy@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Cook, Steven <cook.steven@epa.gov>; Darwin, Henry <darwin.henry@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Schwab, Justin <schwab.justin@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Wildeman, Anna <wildeman.anna@epa.gov>; Woods, Clint <woods.Clint@epa.gov>; Wright, Peter <wright.peter@epa.gov>
Subject: Ethics advice concerning your invitation to the ELI dinner

Hi there,

OGC/Ethics understands that you have received or will soon receive an invitation from the Environmental Law Institute (ELI) to be its guest at its annual awards dinner to be held this year on October 23, 2018 at the Omni Shoreham Hotel. I am writing to confirm that, if you decide to attend this event, you may do so consistent with the Standards of Ethical Conduct for Employees of the Executive Branch and the Trump ethics pledge that you signed (if you were required to do so).

This event qualifies for the Widely-Attended-Gathering gift exception and the donor is not a federally registered lobbyist. Thus, OGC/Ethics determines that your attendance at the event is in the Agency's interest because it will further agency programs and operations. Should you attend this event, you will NOT be required to report this as a gift on your financial disclosure report form because the gift is valued at \$275, which is BELOW the reporting threshold.

Please note: this approval applies only to invitations from ELI itself. Any invitations from other sources will require separate determinations by either OGC or the appropriate Deputy Ethics Official. This determination covers you only -- the invitation is not transferable and is not intended for more than just one attendee.

Acceptance of Free Attendance to a Dinner and Fundraiser (WAG rule)

The gift offered is an evening reception and dinner sponsored by ELI. Because the organization is offering you a complimentary ticket, we must analyze it according to the gift rules. Generally, federal employees are prohibited from accepting gifts given because of their official position or given by a prohibited source (typically, a person either regulated by or seeking to do business with the EPA). In this instance, the gift of free attendance is offered to you because of your official position. In analyzing the situation, we determined that the WAG exception is available because the reception will be widely attended, there will be a diversity of views represented, and there is an opportunity for the exchange of ideas. In order to utilize this gift exception, OGC/Ethics must also make a written determination that we believe your attendance is in the Agency's interest. We do, in fact, conclude that there is an Agency interest in your attendance if you wish to go.

Limitations Due to the Fundraiser Event

Please note that this event is a fundraiser. Therefore, ELI cannot use or reference your official position or title or any authority associated with your public office in furtherance of the fundraising effort. You may not actively or visibly participate in the promotion, production, or presentation of the event, which means that you cannot sit at a head table nor stand in a receiving line. We have confirmed with ELI that you will be placed by ELI and not seated at the request of any sponsoring entity that has bought a table.

Please let me know if you have any questions.

Regards,
justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 10/2/2017 5:42:34 PM
To: Wehrum, William L. [wwehrum@hunton.com]
CC: Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: RE: revised five day letter

Much obliged!

From: Wehrum, William L. [mailto:wwehrum@hunton.com]
Sent: Monday, October 02, 2017 1:36 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: RE: revised five day letter

Justina – Here's a signed copy of the letter.

From: Fugh, Justina [mailto:Fugh.Justina@epa.gov]
Sent: Monday, October 02, 2017 1:28 AM
To: Wehrum, William L.
Cc: Lyons, Troy; Minoli, Kevin
Subject: revised five day letter

Here's the draft 5-day letter reflecting today's date. Please insert the new amount and then print, sign and return the letter to me.

Thanks,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Friday, September 29, 2017 11:40 AM

To: 'Wehrum, William L.' <wwehrum@hunton.com>

Cc: Lyons, Troy <lyons.troy@epa.gov>

Subject: revised five day letter

Hi there,

It's time for the revised five day letter, please. Here's the new draft. We need the amount to insert. You can either insert the information in the letter yourself and then print, sign and date and return to me, or I can insert it into the letter for you.

Thanks,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 10/2/2017 5:28:27 AM
To: Wehrum, William L. [wwehrum@hunton.com]
CC: Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: revised five day letter
Attachments: 5 day letter revised 10-2-17.docx

Here's the draft 5-day letter reflecting today's date. Please insert the new amount and then print, sign and return the letter to me.

Thanks,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Friday, September 29, 2017 11:40 AM
To: 'Wehrum, William L.' <wwehrum@hunton.com>
Cc: Lyons, Troy <lyons.troy@epa.gov>
Subject: revised five day letter

Hi there,

It's time for the revised five day letter, please. Here's the new draft. We need the amount to insert. You can either insert the information in the letter yourself and then print, sign and date and return to me, or I can insert it into the letter for you.

Thanks,

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 9/29/2017 3:39:45 PM
To: Wehrum, William L. [wwehrum@hunton.com]
CC: Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]
Subject: revised five day letter
Attachments: 5 day letter revised 9-29-17.docx

Hi there,

It's time for the revised five day letter, please. Here's the new draft. We need the amount to insert. You can either insert the information in the letter yourself and then print, sign and date and return to me, or I can insert it into the letter for you.

Thanks,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 9/28/2017 8:54:49 PM
To: Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
CC: Baptist, Erik [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=10fc1b085ee14c6cb61db378356a1eb9-Baptist, Er]
Subject: RE: Bill Wehrum

Hi Troy,

In completing his nominee public financial disclosure report, Bill had to report the names of all of his clients over the past couple of years for whom he provided services of more than \$5000. So SEPW will have that list, and his ethics agreement states that he will abide by both the federal ethics and Trump pledge "cooling off" restrictions that apply to him. **Deliberative Process / Ex. 5**

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Lyons, Troy
Sent: Thursday, September 28, 2017 4:04 PM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Baptist, Erik <baptist.erik@epa.gov>
Subject: Bill Wehrum

Deliberative Process / Ex. 5

Troy M. Lyons

Associate Administrator
Office of Congressional & Intergovernmental Relations
U.S. Environmental Protection Agency
202-309-2490 (cell)

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 8/16/2018 1:16:43 PM
To: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: RE: update on the Bill Wehrum part of my day

That's an excellent idea, Kevin! We're on it!

From: Minoli, Kevin
Sent: Thursday, August 16, 2018 9:09 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: update on the Bill Wehrum part of my day

Thanks for the continued work on this issue.

Deliberative Process / Ex. 5

We can talk more tomorrow. Happy to have whoever on the team wants to be a part of that discussion join us if you'd like.

Thanks! Kevin

Kevin S. Minoli
Principal Deputy General Counsel &
Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Aug 15, 2018, at 9:45 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Kevin,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

<Wehrum recusal revised 7_30_18.docx>

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 8/16/2018 1:45:24 AM
To: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: update on the Bill Wehrum part of my day
Attachments: Wehrum recusal revised 7_30_18.docx

Kevin,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 8/16/2018 12:59:42 AM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
Subject: FW: question for you

Hi Josh,

Kevin Minoli suggests that, if you want, you can call him or me directly if you want to talk about this question.

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Fugh, Justina
Sent: Wednesday, July 25, 2018 10:28 AM
To: Lewis, Josh <Lewis.Josh@epa.gov>
Subject: RE: question for you

Hi,

Deliberative Process / Ex. 5

Justina

From: Lewis, Josh
Sent: Monday, July 16, 2018 11:14 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: question for you

Deliberative Process / Ex. 5

From: Fugh, Justina
Sent: Monday, July 16, 2018 2:50 AM
To: Lewis, Josh <Lewis.Josh@epa.gov>
Subject: question for you

Hi Josh,

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Appointment

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 12/1/2017 5:55:42 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
CC: Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
Subject: Declined: General with OGC/Ethics
Location: Bill's Office, WJC-N Room 5406A
Start: 12/5/2017 5:00:00 PM
End: 12/5/2017 5:30:00 PM
Show Time As: Busy

Super sorry, but Shannon and I can't make this particular time.

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 12/1/2017 5:55:06 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
Subject: RE: General with OGC/Ethics

Oh, rats, sorry, Emily, but Shannon and I can't make this time. We have a team meeting already scheduled. Sorry!

-----Original Appointment-----

From: Loving, Shanita **On Behalf Of** Wehrum, Bill
Sent: Friday, December 01, 2017 12:45 PM
To: Fugh, Justina; Griffo, Shannon
Subject: General with OGC/Ethics
When: Tuesday, December 05, 2017 12:00 PM-12:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Bill's Office, WJC-N Room 5406A

To: Wehrum, Bill; Fugh, Justina; Griffo, Shannon

Appointment

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 12/1/2017 2:30:40 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: Accepted: General with OGC/Ethics
Location: Bill's Office, WJC-N Room 5406A

Start: 12/5/2017 8:00:00 PM
End: 12/5/2017 8:30:00 PM
Show Time As: Busy

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 11/30/2017 10:28:00 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
CC: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: RE: Reminder | Please Join Us for the NAM Holiday Party

Hi Bill,

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Wehrum, Bill
Sent: Thursday, November 30, 2017 12:09 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: FW: Reminder | Please Join Us for the NAM Holiday Party

Hi Justina. **Deliberative Process / Ex. 5**

From: Jay Timmons [<mailto:Jay.W.Timmons@nam.org>]
Sent: Thursday, November 30, 2017 11:20 AM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>
Subject: Reminder | Please Join Us for the NAM Holiday Party

Can't see the images? [View it online.](#)



Jay Timmons and the National Association of Manufacturers invite you to the official holiday celebration for manufacturers in America.

Join us to toast the people who are creating the future.

DECEMBER 14

5:00 - 8:00 P.M.

NAM HEADQUARTERS
733 10TH STREET NW, SUITE 700
WASHINGTON, DC 20001

RSVP NOW

Please RSVP by December 4

This event has been designed to meet the "reception exception" as stated by the Senate Select Ethics and House Ethics Committees. Invitation is non-transferable.

**CREATORS
WANTED**

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 9/19/2017 3:40:18 PM
To: Wehrum, William L. [wwehr@hunton.com]
CC: Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]; Duross, Jeanne [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1771ddaf869f40998535d410e5b1a93e-Jduross]
Subject: RE: An urgent request for your help, please

Hi Bill,
 We will be providing information on "outside earned income," which excludes investment income.
 Justina

-----Original Message-----

From: Wehrum, William L. [mailto:wwehr@hunton.com]
 Sent: Tuesday, September 19, 2017 11:29 AM
 To: Fugh, Justina <Fugh.Justina@epa.gov>
 Cc: Lyons, Troy <lyons.troy@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>; Duross, Jeanne <Duross.Jeanne@epa.gov>
 Subject: Re: An urgent request for your help, please

Justina - Does the income question cover more than my draw from the firm? For example, investment income? If so, I will not have time today to gather the info.

On Sep 19, 2017, at 10:27 AM, Fugh, Justina <Fugh.Justina@epa.govmailto:Fugh.Justina@epa.gov> wrote:

Hi there,

The Nuclear Regulatory Commission nominee submitted what's called a "5 day letter" to SEPW, so now we think it best for you to do the same. Previously, SEPW has not sought such letters from EPA nominees, but we are going to go with the flow here. I'm going to need some information from you and then will ask you to sign a letter so that EPA can present that to SEPW in advance of your hearing tomorrow.

You'll remember that you signed your nominee financial disclosure report back in June, so now I am asking you to update your information to reflect income or honoraria received since then. Here's the introductory text of the letter:

Dear Mr. Chairman:

The Ethics in Government Act of 1978, as amended, provides that Presidential nominees for a position requiring the advice and consent of the Senate shall update their public financial disclosure report with respect to any outside earned income and honoraria received through the period ending no more than five days prior to the commencement of the Senate hearing of their nomination. 5 U.S.C. app § 101(b)(1) and 5 C.F.R. § 2634.606(a).

The information on my public financial disclosure report was current as of June 2, 2017. In the intervening period, through September 15, 2017, I have ...

And here are your options for income:

received an additional \$_____ from Hunton & Williams LLP as a payment toward my partnership income for 2017 [and list any other sources of income and the amounts from each] or not received any additional reportable income.

And here are your options for honoraria:

I have also received an additional \$_____ in honoraria from _____ during this time period.

or

I have not received any honoraria during this time period.

Just email or call me with the information to insert for you, and I'll insert it into the letter. I'll work with Troy Lyons to get you a printed copy that you can sign.

Thanks,
 Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 11/22/2017 12:07:46 AM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: RE: Recusal Summary
Attachments: Bill Wehrum recusal 11_15_17.docx; EA Certification Wehrum EPA Assistant Administrator.pdf

Hi Bill,

Wow, you figured out the shared drive as well as your ethics rules. Shannon Griffo on my team drafted a recusal statement for you (see attached) but I thought she and I would try to meet with you next week to go over the terms. Shannon will contact Emily next week, okay? At that time, we planned to get you to sign off on the ethics agreement certification form from OGE (also attached). But, yes, you've captured your recusal situation accurately in your one-pager.

Happy Thanksgiving!
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Wehrum, Bill
Sent: Tuesday, November 21, 2017 6:59 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Recusal Summary

Justina – I want to give my front office a guide to help them understand and help implement my recusals. Attached is a one-page summary that explains the situation as I understand it. Will you please let me know if you have comments. I have not included attachments (lists of pending cases and current clients). I sent those to you last week.

Thanks for your help.

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 9/24/2018 2:11:55 PM
To: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: RE: wehrum recusal

Hi [Personal Matters / Ex. 6] and I didn't check
 email. [Deliberative Process / Ex. 5]

Deliberative Process / Ex. 5

Personal Matters / Ex. 6

Justina

From: Minoli, Kevin
Sent: Sunday, September 23, 2018 12:27 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Re: wehrum recusal

If you see this today and have a few minutes to discuss this I would appreciate connecting. Thanks!

Kevin S. Minoli
 Principal Deputy General Counsel &
 Designated Agency Ethics Official
 Office of General Counsel
 US Environmental Protection Agency
 Main Office Line: 202-564-8040

On Sep 18, 2018, at 6:43 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

But it's not on letterhead! Typically, when we write the recusal, we send it to the employee with directions to print it out on letterhead. That's not what happened here.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Monson, Mahri
Sent: Monday, September 17, 2018 5:17 PM
To: OGC Ethics <OGC_Ethics@epa.gov>

Cc: Packard, Elise <Packard.Elise@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>

Subject: FW: wehrum recusal

FYI, please see signed Wehrum recusal attached. Ethics Team, I have the original for you here at my desk.

Mahri

Mahri Monson
Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-2657
Pronouns: She/Her/Hers

I am a proud member of LGBTQ+ community AND an EPA Ally. [Learn more and take the pledge here.](#)

Help eliminate environmental violations - [report tips and complaints here.](#)

From: DC-WJCN-4020-M@epa.gov [<mailto:DC-WJCN-4020-M@epa.gov>]

Sent: Monday, September 17, 2018 2:32 PM

To: Leopold.Matt@epamail.epa.gov; Mills, Derek <Mills.Derek@epa.gov>; Monson, Mahri <Monson.Mahri@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>

Subject: wehrum recusal

<image2018-09-17-143140.pdf>

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 8/17/2018 1:33:09 PM
To: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject:
Attachments: **Deliberative Process / Ex. 5**

I'll bring hard copy to our weekly meeting, too.

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 9/7/2017 5:15:41 PM
To: Wehrum, William L. [wwehrums@huntington.com]
Subject: one more thing ...

Hi there,

The people at the Office of Government Ethics are “belt and suspenders” types, and they ask that I send you the following email to secure your formal confirmation. Sigh.

Please ask the nominee to personally review the report carefully once more, given that the nominee will be personally responsible for all entries in the report as they currently appear.

Deliberative Process / Ex. 5

So, recognizing that I am the messenger, can you please provide a confirmation email?

Your pal,
Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Appointment

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 12/5/2017 3:00:44 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: Accepted: General with OGC/Ethics
Location: Bill's Office, WJC-N Room 5406A

Start: 12/7/2017 7:00:00 PM
End: 12/7/2017 7:30:00 PM
Show Time As: Busy

Appointment

From: Aarons, Kyle [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ef85c3c00a2244779c4b26ff6bc6ccc9-Aarons, Kyl]
Sent: 9/6/2018 9:34:49 PM
To: Aarons, Kyle [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ef85c3c00a2244779c4b26ff6bc6ccc9-Aarons, Kyl]; Knapp, Kristien [Knapp.Kristien@epa.gov]; Palich, Christian [palich.christian@epa.gov]; Frye, Tony (Robert) [frye.robert@epa.gov]; Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Brazauskas, Joseph [brazauskas.joseph@epa.gov]
Subject: Whitehouse Wehrum letter
Attachments: 2018-09-04 Letter to Minoli.pdf; Carper 7-31-18 (Ethics).pdf; Carper Enforcement 12-21-17.pdf; Whitehouse Wehrum Recusal 4-25-18.pdf
Location: DCRoomARN3428/OCIR
Start: 9/11/2018 2:30:00 PM
End: 9/11/2018 3:00:00 PM
Show Time As: Busy

UPDATE: Moving to Tuesday at 10:30AM

This is to discuss the new letter from Senator Whitehouse about Bill Wehrum's recusal. I'm also attaching Whitehouse's 4-25-18 letter on this topic, as well as a 12-21-17 letter from Carper that also addresses Wehrum and ethics. We responded to the Carper letter on 7-31-18. I assume Whitehouse has seen this recent letter, but we did not send it directly to him.

-Kyle

SHELDON WHITEHOUSE
RHODE ISLAND

COMMITTEES:
BUDGET
ENVIRONMENT AND PUBLIC WORKS
FINANCE
JUDICIARY

United States Senate

WASHINGTON, DC 20510-3905

<http://whitehouse.senate.gov>

(202) 224-2921
TTY (202) 224-7748

176 WESTMINSTER STREET, SUITE 200
PROVIDENCE, RI 02903
(401) 453-5294

September 4, 2018

Kevin Minoli
Principal Deputy General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Ave N.W.
Washington, D.C. 20004

Dear Mr. Minoli:

I write to bring to your attention an article in the August 19, 2018 edition of the *New York Times*, "As Trump Dismantles Clean Air Rules, an Industry Lawyer Delivers for Ex-Clients." This article raises concerns that the EPA's Associate Administrator for the Office of Air and Radiation (OAR), William Wehrum, has failed to follow agency and Office of Government Ethics (OGE) ethics guidelines. In the article, Mr. Wehrum admits that he has not signed a "recusal letter" because he has received "three different interpretations" of the applicable rules. The lack of a recusal statement for a senior official now entrusted with regulating many of his former clients is troubling enough. If, as Mr. Wehrum claims, a year and a half into the Trump administration, a high-ranking federal official cannot get consistent advice from ethics officials, that suggests a broader breakdown of the federal ethics system that must be immediately addressed.

Prior to Mr. Wehrum's nomination hearing before the Senate Environment and Public Works Committee, he entered into an agreement with EPA to recuse himself from participating in particular matters in which he may have a conflict of interest due to his financial holdings, or matters involving his former law firm or clients. He promised to document his compliance with his ethics agreement within 90 days of his confirmation. Mr. Wehrum was confirmed by the United States Senate on November 9, 2017, and according to OGE, he was due to come into compliance with his ethics obligations by February 14, 2018.

Mr. Wehrum's "Certification of Ethics Agreement Compliance" is available on OGE's website.¹ It is signed by him and dated December 7, 2017. On that form, Mr. Wehrum represented the following:

- With respect to whether he had recused himself from particular matters in which he would have a personal or imputed financial interest, Mr. Wehrum originally indicated "no," then revised his form on December 19, 2017, creating by hand a new option—"n/a"—that is not available on OGE's official form.
- With respect to whether he had recused himself from particular matters related to former employers or clients, Mr. Wehrum indicated "yes."

¹ Mr. Wehrum's certification form can be retrieved at <https://extapps2.oge.gov/201/Presiden.nsf/201+Request?OpenForm>.

OGE regulations require “evidence of any action taken to comply with the terms of such ethics agreements ... be submitted by the designated agency ethics official, upon receipt of the evidence, to the Office of Government Ethics and to the Senate confirmation committee.”² “A copy of any recusal instrument listing and describing the specific matters or subjects to which the recusal applies, a statement of the method by which the agency will enforce the recusal, and a list of the positions of those agency employees involved in the enforcement” constitutes evidence of compliance with an ethics agreement.³

I have been trying to obtain a copy of Mr. Wehrum’s recusal statement since February 21, 2018, when my office first requested it from ethics officials in EPA’s Office of General Counsel. My staff repeated its request for this document on March 16, 2018, March 22, 2018, and April 23, 2018 to no avail. On April 24, 2018, I wrote to Administrator Pruitt to inquire about these unexplained delays. I did not receive a response to that letter. The August 19 *New York Times* article was the first public admission by Mr. Wehrum that he has not signed a recusal statement, purportedly because of conflicting advice he had received. Whether or not this is true, it does not absolve Mr. Wehrum from any violation of the terms of his ethics agreement and possibly having made one or more false statements on his December 7, 2017 certification in potential violation of 18 U.S.C. 1001.

It appears the rule on which Mr. Wehrum claims to have received conflicting advice is the two-year prohibition in the Trump Ethics Pledge on participating “in any particular matter involving specific parties that is directly and substantially related to [a] former employer or former clients, including regulations and contracts.”⁴ As interpreted by OGE, the rule prohibits,

any meeting or other communication with a former employer or former client relating to the performance of the appointee’s official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties....

Such meetings do not have to be open to every comer, but should include a multiplicity of parties. For example, if an agency is holding a meeting with five or more stakeholders regarding a given policy or piece of legislation, an appointee could attend such a meeting even if one of the stakeholders is a former employer or former client; such circumstances do not raise the concerns about special access at which the Executive Order is directed.⁵

Without a signed recusal statement that lists former clients, specific matters, and waivers, it is impossible to know which of the many industry meetings documented in the *New York Times* article run afoul of this provision. These determinations are not always self-evident, as Mr. Wehrum’s extensive and opaque client list goes to show.

For example, well into 2017, Mr. Wehrum represented the Utility Air Regulatory Group (UARG), described in court pleadings as a “non-profit, unincorporated trade association of

² 5 C.F.R. 2634.804(a)(1). See 5 U.S.C. app. 110.

³ 5 C.F.R. 2634.804(b)

⁴ Executive Order 13,770 para 6.

⁵ OGE DO 09-11. This advisory applies to the Trump Ethics Pledge. See OGE LA 17-03.

individuals, electric utilities, and national industry trade associations.”⁶ According to the Natural Resources Defense Council, UARG “has long been linked with the private law firm, Hunton & Williams, with little transparency and no obvious independence from its association with the law firm.”⁷ Mr. Wehrum was a partner at Hunton & Williams, now Hunton Andrews Kurth.

Mr. Wehrum met with UARG in Hunton’s office on December 7, 2017, along with representatives from Duke Energy, American Electric Power, Dominion Energy, and the Southern Company. Without the details provided by a signed recusal statement, the public does not know whether EPA ethics officials have sanctioned a meeting between Wehrum, a former client, and regulated companies that may be “members” of that “unincorporated” former client, in the law offices of a firm from which that client may not have any “obvious independence.” It would be hard to justify such a meeting of a group of regulated companies and their wholly-owned association as sufficiently open to “address concerns that former employers and clients may appear to have privileged access, which they may exploit to influence an appointee out of the public view.”⁸

There are numerous other examples of Mr. Wehrum meeting with former clients in settings that do not appear to have been “open to all interested parties” nor “include[d] a multiplicity of parties.” For example, as of October 2017, Mr. Wehrum represented the National Rural Electric Cooperative Association (NRECA) in at least four cases.⁹ Yet his public calendar for March 30, 2018 shows a meeting with NRECA and no other parties.¹⁰ No information is provided as to what was discussed at this meeting.

According to Mr. Wehrum’s responses to questions for the record asked immediately following his confirmation hearing, he also represented the U.S. Chamber of Commerce, the American Iron and Steel Institute, the Biomass Power Association, the National Association of Manufacturers (NAM), the American Chemistry Council (ACC) as of October 2017.¹¹ His public calendars show him to have had meetings with the U.S. Chamber of Commerce on January 12, 2018, with the American Iron and Steel Institute on January 25, 2018 and February 28, 2018, with the Biomass Power Association on May 16, 2018, with NAM on February 5, 2018 and May 14, 2018, and with ACC on May 24, 2018 and June 7, 2018.¹² None of these calendar entries indicate that any other parties were present at these meetings.

⁶ <https://www.documentcloud.org/documents/4776445-EPA-s-William-Wehrum-and-the-Effort-to-Move.html#document/p300/a448290> [get better cite]

⁷ <https://www.nrdc.org/experts/john-walke/your-power-company-fighting-court-against-safeguards-mercury-and-toxic-air>

⁸ OGE DO 09-11 at 2.

⁹ A list of Mr. Wehrum’s pending cases and the clients he represented is available at <https://www.documentcloud.org/documents/4776445-EPA-s-William-Wehrum-and-the-Effort-to-Move.html#document/p118/a448252>

¹⁰ Mr. Wehrum’s public calendars are available at <https://www.epa.gov/senior-leaders-calendars/calendar-bill-wehrum-assistant-administrator-oar>

¹¹ A list of Mr. Wehrum’s pending cases and the clients he represented is available at <https://www.documentcloud.org/documents/4776445-EPA-s-William-Wehrum-and-the-Effort-to-Move.html#document/p118/a448252>

¹² Mr. Wehrum’s public calendars are available at <https://www.epa.gov/senior-leaders-calendars/calendar-bill-wehrum-assistant-administrator-oar>

Mr. Wehrum also represented the Brick Industry Association in a number of matters.¹³ One of the cases in which he represented the Brick Industry Association was recently decided by the D.C. Circuit.¹⁴ The D.C. Circuit's decision remanded the case to EPA for further rulemaking. Mr. Wehrum, as Assistant Administrator for OAR, will presumably be involved in determining EPA's response in this particular matter involving a former client. However, the absence of a recusal letter detailing particular matters and former clients and employers covered by it makes it impossible to know whether Mr. Wehrum considers himself recused from this matter.

OGE and EPA should take immediate action to clarify the specific matters or subjects and former employers and clients from which Mr. Wehrum must recuse himself, ensure that he signs a recusal letter detailing these matters, subjects, former employers, and former clients, and verify that he is fully complying with the law. I would also appreciate responses to the following questions:

1. Has OGE concluded that Mr. Wehrum was, as of December 7, 2017, in compliance with his ethics agreement?
2. Has OGE or EPA undertaken any review or investigation into Mr. Wehrum's certification of compliance to determine whether it was signed in violation of 18 U.S.C. 1001?
3. Have OGE or EPA provided advice to Mr. Wehrum on his compliance with the Trump Ethics Pledge? Are your offices aware that Mr. Wehrum has obtained three different interpretations of ethics rules? If so, what are those interpretations and from whom were they obtained?
4. What steps, if any, have been taken by OGE or EPA to encourage Mr. Wehrum to sign a recusal statement? Which officials within EPA have communicated with Mr. Wehrum about the matter of his recusal statement?
5. Has Mr. Wehrum received a waiver or been authorized to meet with former clients or employers? If so, by whom and on what basis? If not, what consequences, if any, has Mr. Wehrum faced if he has indeed participated in such meetings?
6. Has Mr. Wehrum received a waiver or been authorized to work on particular matters involving UARG or other former clients without a recusal statement? If so, by whom and on what basis? If not, what consequences has Mr. Wehrum faced if he has indeed worked on particular matters involving former clients?

¹³ A list of Mr. Wehrum's pending cases and the clients he represented is available at <https://www.documentcloud.org/documents/4776445-EPA-s-William-Wehrum-and-the-Effort-to-Move.html#document/p118/a448252>

¹⁴ *Sierra Club v. EPA*, Case No. 15-1487, available at [https://www.cadc.uscourts.gov/internet/opinions.nsf/0/B42E4D7405452F66852582C200525ACE/\\$file/15-1487.pdf](https://www.cadc.uscourts.gov/internet/opinions.nsf/0/B42E4D7405452F66852582C200525ACE/$file/15-1487.pdf)

7. Is OGE aware of any other federal employees who have not timely completed their recusal statements because of conflicting advice about the requirements of the Trump Ethics Pledge? If so, which employees? What steps are being taken to ensure that consistent advice is being offered across the federal government?
8. Has EPA ascertained who the members of UARG are? Has EPA concluded that Mr. Wehrum can meet with UARG and UARG members to discuss a particular matter involving these specific parties? If so, please describe under what circumstances such meetings can take place?

In addition to responses to these questions, I request that EPA and OGE provide any internal communications, and communications between each agency and outside agencies (including between OGE and EPA) concerning advice requested by and given to Mr. Wehrum related to his recusal statement.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sheldon Whitehouse', written in a cursive style.

Sheldon Whitehouse
United States Senator

cc: Emory A. Rounds, III, Director, U.S. Office of Government Ethics
Arthur Elkins, EPA Inspector General
Troy Lyons, EPA Office of Congressional and Intergovernmental Relations

Appointment

From: Aarons, Kyle [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EF85C3C00A2244779C4B26FF6BC6CCC9-AARONS, KYL]
Sent: 9/6/2018 9:24:59 PM
To: Aarons, Kyle [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ef85c3c00a2244779c4b26ff6bc6ccc9-Aarons, Kyl]; Knapp, Kristien [Knapp.Kristien@epa.gov]; Palich, Christian [palich.christian@epa.gov]; Frye, Tony (Robert) [frye.robert@epa.gov]; Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Brazauskas, Joseph [brazauskas.joseph@epa.gov]
Subject: Whitehouse Wehrum letter
Attachments: 2018-09-04 Letter to Minoli.pdf; Carper 7-31-18 (Ethics).pdf; Carper Enforcement 12-21-17.pdf; Whitehouse Wehrum Recusal 4-25-18.pdf
Location: DCRoomARN3428/OCIR
Start: 9/10/2018 7:00:00 PM
End: 9/10/2018 7:30:00 PM
Show Time As: Tentative

This is to discuss the new letter from Senator Whitehouse about Bill Wehrum's recusal. I'm also attaching Whitehouse's 4-25-18 letter on this topic, as well as a 12-21-17 letter from Carper that also addresses Wehrum and ethics. We responded to the Carper letter on 7-31-18. I assume Whitehouse has seen this recent letter, but we did not send it directly to him.

-Kyle

Appointment

From: Aarons, Kyle [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EF85C3C00A2244779C4B26FF6BC6CCC9-AARONS, KYL]

Sent: 9/6/2018 9:24:52 PM

To: Knapp, Kristien [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8d4ab10c47264bca8b12174cdb981942-KKnapp]; Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]; Frye, Tony (Robert) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=58c08abdfc1b4129a10456b78e6fc2e1-Frye, Rober]; Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Brazauskas, Joseph [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=babf7b77aeec4ffead446bb35e05b24-Brazauskas,]

Subject: Whitehouse Wehrum letter

Attachments: 2018-09-04 Letter to Minoli.pdf; Carper 7-31-18 (Ethics).pdf; Carper Enforcement 12-21-17.pdf; Whitehouse Wehrum Recusal 4-25-18.pdf

Location: DCRoomARN3428/OCIR

Start: 9/10/2018 7:00:00 PM

End: 9/10/2018 7:30:00 PM

Show Time As: Tentative

This is to discuss the new letter from Senator Whitehouse about Bill Wehrum's recusal. I'm also attaching Whitehouse's 4-25-18 letter on this topic, as well as a 12-21-17 letter from Carper that also addresses Wehrum and ethics. We responded to the Carper letter on 7-31-18. I assume Whitehouse has seen this recent letter, but we did not send it directly to him.

-Kyle



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

JUL 31 2018

The Honorable Tom Carper
Ranking Member
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Senator Carper:

Thank you for your letter of December 21, 2017, to the U.S. Environmental Protection Agency, in which you asked for information related to the federal ethics obligations of employees in the Office of Air and Radiation. As the Designated Agency Ethics Official (DAEO), I am writing on behalf of Acting Administrator Andrew Wheeler.

My staff and I have provided ethics briefings to both Mr. Wehrum and OAR Senior Counsel David Harlow to ensure that they are fully aware of their federal ethics obligations. As a Presidentially Appointed Senate confirmed appointee, Assistant Administrator Wehrum signed an ethics agreement that was provided to the Senate as part of his confirmation process and which we have enclosed for your reference. In addition, enclosed please find a signed recusal statement from Mr. Harlow. They have both taken steps to ensure compliance with all applicable ethics regulations and the Trump Ethics Pledge. Mr. Wehrum and Mr. Harlow were both formerly employed by Hunton & Williams LLP, and one of their former clients is DTE Energy Company (DTE). They are, therefore, recused from participating in any particular matter in which DTE is a party or represents a party for two years from the date they joined federal service. They understand that they may also have professional bar obligations beyond the federal ethics rules. Please note, however, that neither of them is recused from work on broader policy improvements surrounding the agency's New Source Review program and developing forward-looking actions. Assistant Administrator Wehrum and Mr. Harlow have been advised to perform their respective duties in a manner consistent with all applicable ethical commitments and obligations.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may contact Kristien Knapp in the Office of Congressional and Intergovernmental Relations at (202) 564-3277 or Knapp.Kristien@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Minoli', with a stylized flourish at the end.

Kevin S. Minoli
Designated Agency Ethics Official
Principal Deputy General Counsel

Enclosures

cc: The Honorable John Barrasso
Chairman



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF
GENERAL COUNSEL

The Honorable Tom Carper
Ranking Member
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Senator Carper:

Thank you for your letter of December 21, 2017, to Administrator E. Scott Pruitt, in which you asked for information related to the federal ethics obligations of employees in the U.S. Environmental Protection Agency's Office of Air and Radiation. As the Designated Agency Ethics Official (DAEO), I am writing on behalf of the Administrator.

My staff and I have provided ethics briefings to both Mr. Wehrum and OAR Senior Counsel David Harlow to ensure that they are fully aware of their federal ethics obligations. As a Presidentially Appointed Senate confirmed appointee, Assistant Administrator Wehrum signed an ethics agreement that was provided to the Senate as part of his confirmation process and which we have enclosed for your reference. In addition, enclosed please find a signed recusal statement from Mr. Harlow. They have both taken steps to ensure compliance with all applicable ethics regulations and the Trump Ethics Pledge. Mr. Wehrum and Mr. Harlow were both formerly employed by Hunton & Williams LLP, and one of their former clients is DTE Energy Company (DTE). They are, therefore, recused from participating in any particular matter in which DTE is a party or represents a party for two years from the date they joined federal service. They understand that they may also have professional bar obligations beyond the federal ethics rules. Please note, however, that neither of them is recused from work on broader policy improvements surrounding the agency's New Source Review program and developing forward-looking actions. Assistant Administrator Wehrum and Mr. Harlow have been advised to perform their respective duties in a manner consistent with all applicable ethical commitments and obligations.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may contact Kristien Knapp in the Office of Congressional and Intergovernmental Relations at (202) 564-3277 or Knapp.Kristien@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Minoli', with a stylized flourish at the end.

Kevin S. Minoli
Designated Agency Ethics Official
Principal Deputy General Counsel

Enclosures

cc: The Honorable John Barrasso
Chairman

Message

From: Woods, Clint [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BC65010F5C2E48F4BC2AA050DB50D198-WOODS, CLIN]
Sent: 7/18/2018 5:49:21 PM
To: Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
CC: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
Subject: RE: Draft Recusal Statement for your Review from OGC/Ethics
Attachments: Woods Recusal.pdf

Shannon,

Thanks so much for following up – It highlighted that I had wires crossed on who would be sending back an electronic copy from March. Signed copy is attached.

Clint Woods
 Deputy Assistant Administrator
 Office of Air and Radiation, U.S. EPA
 202.564.6562

From: Griffo, Shannon
Sent: Wednesday, July 18, 2018 10:45 AM
To: Woods, Clint <woods.clint@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Draft Recusal Statement for your Review from OGC/Ethics

Hi Clint,

I've been out of the office Personal Matters / Ex. 6 and wanted to circle back with you to see if you signed your recusal statement. If so, please send us a copy.

Thanks,
 Shannon

Shannon Griffo
 Ethics Attorney
 Office of General Counsel, Ethics
 U.S. Environmental Protection Agency
 (202) 564-7061
Griffo.Shannon@epa.gov

From: Griffo, Shannon
Sent: Monday, March 12, 2018 9:55 AM
To: Woods, Clint <woods.Clint@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Draft Recusal Statement for your Review from OGC/Ethics

Thanks Clint! Attached is an updated version to reflect your comments. Once you've reviewed it again, please print it out on letterhead, sign and date, then pdf it back to Justina Fugh and me.

And of course, let us know if you have any other questions.

Thanks again,
Shannon

Shannon Griffo
Ethics Attorney
Office of General Counsel, Ethics
U.S. Environmental Protection Agency
(202) 564-7061
Griffo.Shannon@epa.gov

From: Woods, Clint
Sent: Friday, March 09, 2018 3:24 PM
To: Griffo, Shannon <Griffo.Shannon@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Draft Recusal Statement for your Review from OGC/Ethics

Shannon,

Sorry for the delay – Attached version contains responses. Thanks!

Clint Woods
Deputy Assistant Administrator
Office of Air and Radiation, U.S. EPA
202.564.6562

From: Griffo, Shannon
Sent: Tuesday, March 6, 2018 11:11 AM
To: Woods, Clint <woods.clint@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Draft Recusal Statement for your Review from OGC/Ethics

Hi Clint,

Your recusal statement is ready for your review. OGC/Ethics has previously advised you – and you have assiduously been following that advice – regarding your ethics obligations, but this document will formally notify people about your obligations. Please review the document and respond to our comments.

Once our comments are addressed and the recusal is ready for signature, you'll print it out on letterhead, sign and date it, then pdf it back to Justina Fugh and me.

Please let us know if you have any questions.

Thanks,
Shannon

Shannon Griffo
Ethics Attorney
Office of General Counsel, Ethics
U.S. Environmental Protection Agency
(202) 564-7061

Griffo.Shannon@epa.gov

Message

From: Youngblood, Charlotte [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=AAA372E7CCA8436A9A9C8786D8FA885B-YOUNGBLOOD,]
Sent: 2/28/2018 10:11:00 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
Subject: FW: Ethics letter
Attachments: Carper Ethics Draft 2 28 2018.docx; Carper Enforcement 12-21-17.pdf; Senator Carper et al. May 5, 2017~3 ethics letters.pdf

Justina,

Can you please review the attached draft ethics response? We are hoping to get this signed by Kevin before he leaves. This is very close to language in an ethics letter that was sent out earlier (also attached). Would it be feasible for you or someone in your office to review and edit and turn back by Friday morning, by any chance?

I know you are swamped.

Thanks for any time!

Charlotte Youngblood
 Deputy Associate General Counsel
 General Law Office
 Office of General Counsel
 U.S. Environmental Protection Agency
 (202) 564-0283
youngblood.charlotte@epa.gov

From: Knapp, Kristien
Sent: Wednesday, February 28, 2018 3:58 PM
To: Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>
Subject: RE: Ethics letter

Hi Charlotte – Here's a draft for Kevin's signature, based on the letter he previously signed.

Thanks,
 Kristien

From: Youngblood, Charlotte
Sent: Wednesday, February 28, 2018 1:54 PM
To: Aarons, Kyle <Aarons.Kyle@epa.gov>
Cc: Knapp, Kristien <Knapp.Kristien@epa.gov>
Subject: RE: Ethics letter

Yes – I think this is exactly right. Would it be possible for you to draft this with whatever language you need to be responsive, and I'll get it in front of Kevin and Justina asap?

Thanks,

Charlotte Youngblood
 Deputy Associate General Counsel

General Law Office
Office of General Counsel
U.S. Environmental Protection Agency
(202) 564-0283
youngblood.charlotte@epa.gov

From: Aarons, Kyle
Sent: Wednesday, February 28, 2018 1:51 PM
To: Youngblood, Charlotte <Youngblood.Charlotte@epa.gov>
Cc: Knapp, Kristien <Knapp.Kristien@epa.gov>
Subject: Ethics letter

Hi Charlotte – This seems to be the closest example of what we discussed. Following this model, Kevin would just be signing a letter to transmit the ethics docs of Bill Wehrum and David Harlow.

-Kyle

Kyle Aarons
Congressional Affairs
U.S. Environmental Protection Agency
202-564-7351

Message

From: Minoli, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C9C0070D651A4625AC20258369F9B050-KMINOLI]
Sent: 9/30/2018 1:39:16 AM
To: Knapp, Kristien [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8d4ab10c47264bca8b12174cdb981942-KKnapp]
CC: Cozad, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4a30a28be6a74d3da779bb7f7b34a876-COZAD, DAVID]; Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Packard, Elise [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6d4ad4c6abb24f54a2c8c16fa17ba0fd-Packard, El]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]; Clarke, Victoria [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Clarke, Victoria]
Subject: Sen Whitehouse Letter
Attachments: Wehrum signed recusal 9_17_18.pdf; Wehrum signed EA compliance 9_27_18.pdf; Whitehouse Wehrum Recusal.Signed.pdf

Hi Kristien- Per Shannon's note, I am sending you the copy of the letter I just signed. My last day as a government employee is Sunday the 30th, so unless you reach me then please follow up with the folks on the cc line. Thanks, Kevin

Kevin S. Minoli

Principal Deputy General Counsel
 & Designated Agency Ethics Official
 Office of General Counsel
 US Environmental Protection Agency
 Main Office Line: 202-564-8064

From: Griffo, Shannon
Sent: Friday, September 28, 2018 10:59 AM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Packard, Elise <Packard.Elise@epa.gov>; Cozad, David <Cozad.David@epa.gov>; Monson, Mahri <Monson.Mahri@epa.gov>; Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: Comments on Sen Whitehouse Letter

Kevin,

Here are the changes to the Whitehouse letter, along with the signed copy of Bill's recusal statement and his updated ethics agreement compliance form. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

I'm teleworking and reachable at my office number, and Victoria is in the office today.

Thanks,
Shannon

Shannon Griffo
Ethics Attorney
Office of General Counsel, Ethics
U.S. Environmental Protection Agency
(202) 564-7061
Griffo.Shannon@epa.gov

From: Minoli, Kevin
Sent: Friday, September 28, 2018 3:04 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Cc: Packard, Elise <Packard.Elise@epa.gov>; Cozad, David <Cozad.David@epa.gov>; Monson, Mahri <Monson.Mahri@epa.gov>
Subject: Comments on Sen Whitehouse Letter

Attached are hand written notes on the Whitehouse letter. Some are probably hard to decipher, so I will be available later today to translate.

Deliberative Process / Ex. 5

Thanks, Kevin

Kevin S. Minoli
Principal Deputy General Counsel
& Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8064

U.S. OFFICE OF GOVERNMENT ETHICS
 Certification of Ethics Agreement Compliance
 (June 2017 version)

| CERTIFICATION OF ETHICS AGREEMENT COMPLIANCE Senate Confirmed Presidential Appointee | | |
|--|--|--|
| 1. Appointee's Information | a. Appointee's Name: | to be completed by OGE William L. Wehrum |
| | b. Position Title: | to be completed by OGE Assistant Administrator for the Office of Air and Radiation |
| | c. Agency: | to be completed by OGE U.S. Environmental Protection Agency |
| | d. Date Ethics Agreement Signed: | to be completed by OGE August 28, 2017 |
| | e. Date Confirmed: | to be completed by OGE November 9, 2017 |
| | f. Due Date for Certification of Ethics Agreement Compliance: | to be completed by OGE February 14, 2018 |
| 2. Resignations | I completed all of the resignations indicated in my ethics agreement before I assumed the duties of my current government position. | <input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A |
| 3. Divestitures | a. I have completed all of the divestitures indicated in my ethics agreement. I also understand that I may not repurchase these assets during my appointment without OGE's prior approval. | <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A |
| | b. I have filed a period transaction report, or periodic transaction reports, (OGE Form 278-T) to disclose the completion of these agreed upon divestitures. | <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A Filing Date(s) of OGE Form 278-T Report(s): |
| 4. Managed Accounts | If I have a managed account or use the services of an investment professional, I have notified the manager or professional of the limitations indicated in my ethics agreement. In addition, I am continuing to monitor purchases. | <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A |
| 5. Interim Recusals | I complied with my interim recusal obligations pending the divestitures required by my ethics agreement. | <input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A |

THIS CERTIFICATION WILL BE POSTED FOR PUBLIC VIEWING ON OGE'S WEBSITE. 1

U.S. OFFICE OF GOVERNMENT ETHICS
 Certification of Ethics Agreement Compliance
 (June 2017 version)

William L. Wehrum

| | | |
|--|--|--|
| <p>6.</p> <p>Recusals</p> <p>(Note: These factual statements describe the appointee's current status. They are not intended to modify ethics agreement commitments or create new recusal obligations.)</p> | <p>a. I am recusing from particular matters in which I know I have a <u>personal or imputed</u> financial interest directly and predictably affected by the matter, unless I have received a waiver or qualify for a regulatory exemption.</p> | <p><input type="radio"/> Yes <input checked="" type="radio"/> No <input checked="" type="radio"/> N/A</p> |
| | <p>b. I am recusing from particular matters in which any former employer or client I served in the past year is a party or represents a party, unless I have been authorized under 5 C.F.R. § 2635.502(d).</p> | <p><input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p> |
| | <p>c. I am recusing from particular matters in which any former employer or client I served in the two years prior to my appointment is a party or represents a party, unless I have received a waiver under Exec. Order 13770.</p> | <p><input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p> |
| <p>7.</p> <p>Waivers and Authorizations</p> | <p>a. I received a waiver pursuant to 18 U.S.C. § 208.</p> <p>If yes, indicate the date of the waiver and indicate the financial interest covered by the waiver.</p> | <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p> <p>Date:</p> <p>Financial interest:</p> |
| | <p>b. I received a waiver pursuant to Executive Order 13770.</p> <p>If yes, indicate the date of the waiver and the subject of the waiver (i.e., applicable paragraph of the ethics pledge, parties, particular matters, specific issue areas, as applicable).</p> | <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p> <p>Date:</p> <p>Subject:</p> |
| | <p>c. I received an authorization pursuant to 5 C.F.R. § 2635.502(d).</p> <p>If yes, indicate date of authorization and identify the covered person(s) as to whom you have been authorized (e.g., former employer, former client, spouse's employer, spouse's current client, etc.).</p> | <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p> <p>Date:</p> <p>Covered person(s):</p> |
| | <p>d. I received a waiver pursuant to 5 C.F.R. § 2635.503(e).</p> <p>If yes, indicate the date of the waiver and identify the former employer or payer.</p> | <p><input type="radio"/> Yes <input checked="" type="radio"/> No</p> <p>Date:</p> <p>Former employer or payer:</p> |

THIS CERTIFICATION WILL BE POSTED FOR PUBLIC VIEWING ON OGE'S WEBSITE. 2

U.S. OFFICE OF GOVERNMENT ETHICS
 Certification of Ethics Agreement Compliance
 (June 2017 version)

William L. Wehrum

| | | | | | |
|--|--|---|--|--|--|
| <p>8.</p> <p>Payments, Accelerations, or Divestitures Required to be Completed Prior to Entering Government Service</p> | <p>Mark this box if not applicable:</p> <p><input type="checkbox"/></p> | <p>a. If I committed that I would forfeit a financial interest or payment, unless it was received or accelerated prior to my assumption of the duties of the government position:</p> | <p><input checked="" type="radio"/> I received it (or it was accelerated) <u>prior</u> to my assumption of the duties of the position.</p> <p><input type="radio"/> I received it (or it was accelerated) <u>after</u> my assumption of the duties of the position.</p> <p><input type="radio"/> I forfeited it.</p> | | |
| <p>9.</p> <p>Requirements for Regular Appointees</p> | <p>I have completed my initial ethics briefing, pursuant to 5 C.F.R. § 2638.305.</p> <p>If you are a member of a covered agency, I agree to comply with the ethics rules that apply to me as a member of that agency.</p> <p>I have signed the ethics pledge pursuant to Executive Order 13770.</p> <p>If you are a member of a covered agency, I agree to comply with the ethics rules that apply to me as a member of that agency.</p> | | <p><input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p> <p><input checked="" type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A</p> | | |
| <p>10.</p> <p>Additional Ethics Agreement Requirements</p> | <p>to be completed by OGE:</p> | <p>to be completed by appointee:</p> <p>I am complying with these requirements as described in the adjacent box.</p> <p><input type="radio"/> Yes <input type="radio"/> No <input checked="" type="radio"/> N/A</p> | | | |
| <p>11.</p> <p>Comments of Appointee</p> | <p>I answered "N/A" to No. 6 because I have no existing conflict and I do not expect to have any in the future, so this question does not apply to my situation.</p> <p><i>W. L. Wehrum</i> 9.27.18</p> | | | | |
| <p>Any intentionally false or misleading statement or response provided in this certification is a violation of law punishable by a fine or imprisonment, or both, under 18 U.S.C. § 1001.</p> | | | | | |
| <p>I certify that the information I have provided is complete and accurate.</p> | <p>Appointee's Signature:</p> <p><i>W. L. Wehrum</i></p> | <p>Date:</p> <p>12-7-17</p> | | | |

THIS CERTIFICATION WILL BE POSTED FOR PUBLIC VIEWING ON OGE'S WEBSITE. 3

MEMORANDUM

SUBJECT: Recusal Statement

FROM: William L. Wehrum
Assistant Administrator

TO: Andrew R. Wheeler
Acting Administrator



9-17-18

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligations to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13770 and the Trump Ethics Pledge that I signed, as well as my own bar obligations.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I have consulted with OGC/Ethics and been advised that I do not currently have any financial conflicts of interest but will remain vigilant and notify OGC/Ethics immediately should my financial situation change.

OBLIGATIONS UNDER EXECUTIVE ORDER 13770

Pursuant to Section 1, Paragraph 6 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer, **Hunton & Williams LLP** (now Hunton Andrews Kurth LLP), or any former client to whom I provided legal services during the past two years, is a party or represents a party. I understand that my recusal lasts for two years from the date that I joined federal service.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means five or more parties.

| RECUSAL LIST | |
|--|---|
| In effect until November 12, 2019 | |
| FORMER EMPLOYER: Hunton & Williams LLP (now Hunton Andrews Kurth LLP) | |
| FORMER CLIENTS: ¹ | |
| Agrium Inc.; Agrium U.S. Inc.; Nu-West Industries, Inc. American Forest & Paper Association American Fuel & Petrochemical Manufacturers American Petroleum Institute B10 Litigation Coalition Brick Industry Association CEMEX USA, Inc. Champion Power Equipment, Inc. Chemical Safety Advocacy Group (CSAG) Chevron Corporation Diageo Dominion Resources Services, Inc. Duke Energy Corporation Enbridge, Inc. Evonik Corporation ² ExxonMobil Corporation Flint Hills Resources, LP GPA Midstream Association (formally known as Gas Processors Association) | General Electric Company Georgia-Pacific LLC Kinder Morgan, Inc. Koch Companies Public Sector, LLC Koch Industries, Inc. Lehigh Hanson, Inc. Lowe's Companies, Inc. National Stone, Sand and Gravel Association Pfizer Inc. Phillips 66 Company Portland Cement Association Prinoth Ltd. Salt River Project Spectra Energy Corp. Sunflower Electric Power Corporation, Inc. Tile Council of North America Utility Air Regulatory Group Utility Water Act Group Whitaker Greer Company |

¹ Two confidential clients are not listed. Both clients have a written confidentiality agreement expressly prohibiting disclosure.

² Includes but not limited to an ongoing settlement negotiation.

ATTORNEY BAR OBLIGATIONS

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in personally and substantially while in private practice, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics. Attached is a list of cases I am recused from given my participation at Hunton Andrews Kurth LLP.

SCREENING ARRANGEMENT

In order to ensure that I do not participate in matters relating to any of the entities listed above or matters identified in the Attachment, I will instruct Josh Lewis, Chief of Staff, and Mandy Gunasekara, Principal Deputy Assistant Administrator, to assist in screening EPA matters directed to my attention that involve those entities. All inquiries and comments involving the entities or matters on my recusal list should be directed to Josh and Mandy without my knowledge or involvement until after my recusal period ends.

If Josh or Mandy determine that a particular matter will directly involve any of the entities or matters listed on my "specific party" recusal list, then they will refer it for action or assignment to another, without my knowledge or involvement. In the event that they are unsure whether an issue is a particular matter from which I am recused, then they will consult with OGC/Ethics for a determination. I will provide a copy of this memorandum to my principal subordinates with a copy to Justina Fugh, Senior Counsel for Ethics.

UPDATE AS NECESSARY

In consultation with OGC/Ethics, I will revise and update my recusal statement whenever warranted by changed circumstances, including changes in my financial interests, changes in my personal or business relationships, or any changes to my EPA duties. In the event of any changes to my recusal or screening arrangement, I will provide a copy of the revised recusal statement to OGC/Ethics.

Attachment

cc: Matthew Z. Leopold, General Counsel
 Ryan Jackson, Chief of Staff
 Mandy Gunesakara, Deputy Assistant Administrator
 Clint Woods, Deputy Assistant Administrator
 Elizabeth Shaw, Deputy Assistant Administrator
 David Harlow, Senior Counsel
 Josh Lewis, Chief of Staff
 Kevin Minoli, Designated Agency Ethics Official
 Justina Fugh, Senior Counsel for Ethics

| William L. Wehrum RECUSAL LIST – ATTORNEY BAR OBLIGATIONS | |
|--|---|
| CASE NAME: | CITATION: |
| American Petroleum Institute v. EPA | No. 08-1277 (D.C. Cir.) |
| Environmental Integrity Project v. EPA | No. 08-1281 (D.C. Cir.) (consolidated with No. 08-1277) |
| Kinder Morgan CO2 Co., LP v. EPA | No. 09-1332 (D.C. Cir.) |
| Gas Processors Association v. EPA | No. 11-1023 (D.C. Cir.) |
| American Petroleum Institute, <i>et al.</i> v. EPA | No. 11-1309 (D.C. Cir.) |
| National Rural Electric Coop. v. EPA | No. 12-1208 (D.C. Cir.) (consolidated with No. 12-1163) |
| National Rural Electric Coop. v. EPA | No. 12-1352 (D.C. Cir.) (consolidated with No. 12-1346) |
| American Petroleum Institute v. EPA | No. 12-1405 (D.C. Cir.) |
| Gas Processors Association v. EPA | No. 12-1406 (D.C. Cir.) (consolidated with No. 12-1405) |
| American Petroleum Institute, <i>et al.</i> v. EPA | No. 12-1442 (D.C. Cir.) |
| American Petroleum Institute v. EPA | No. 13-1063 (D.C. Cir.) (consolidated with No. 11-1309) |
| American Petroleum Institute v. EPA | No. 13-1108 (D.C. Cir.) |
| Conservation Law Foundation, <i>et al.</i> v. EPA | No. 13-1233 (D.C. Cir.) |
| Sierra Club, <i>et al.</i> v. EPA | No. 13-1256 (D.C. Cir.) (consolidated with No. 16-1021) |
| American Petroleum Institute v. EPA | No. 13-1289 (D.C. Cir.) (consolidated with No. 13-1108) |
| PSEG Power LLC, <i>et al.</i> v. EPA | No. 14-1199 (D.C. Cir.) (consolidated with No. 13-1233) |
| Georgia-Pacific LLC v. EPA | No. 14-1267 (D.C. Cir.) |
| Gas Processors Association v. EPA | No. 15-1021 (D.C. Cir.) (consolidated with No. 15-1020) |
| American Petroleum Institute v. EPA | No. 15-1044 (D.C. Cir.) (consolidated with No. 13-1108) |
| American Petroleum Institute v. EPA | No. 15-1197 (D.C. Cir.) |
| Gas Processors Association v. EPA | No. 15-1473 (D.C. Cir.) |
| Sierra Club, <i>et al.</i> v. EPA, <i>et al.</i> | No. 15-1487 (D.C. Cir.) |
| Brick Industry Association v. EPA | No. 15-1492 (D.C. Cir.) (consolidated with No. 15-1487) |
| Sierra Club, <i>et al.</i> v. EPA, <i>et al.</i> | No. 16-1021 (D.C. Cir.) |
| American Fuel & Petrochemical, <i>et al.</i> v. EPA | No. 16-1033 (D.C. Cir.) |
| Air Alliance Houston, <i>et al.</i> v. EPA, <i>et al.</i> | No. 16-1035 (D.C. Cir.) (consolidated with No. 16-1033) |
| Brick Industry Association v. EPA | No. 16-1179 (D.C. Cir.) (consolidated with No. 15-1487) |

| | |
|--|---|
| American Petroleum Institute v. EPA | No. 16-1270 (D.C. Cir.) (consolidated with No. 13-1108) |
| American Petroleum Institute v. EPA | No. 16-1271 (D.C. Cir.) |
| American Petroleum Institute v. EPA | No. 16-1345 (D.C. Cir.) (consolidated with No. 16-1344) |
| Natural Resources Defense Council v. EPA | No. 16-1425 (D.C. Cir.) |
| Utility Air Regulatory Group v. EPA | No. 17-1088 (D.C. Cir.) (consolidated with No. 17-1085) |

Message

From: Griffo, Shannon [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6C901EB2C3BA4556A4A581B8816D5A9A-VALLANCE, SHANNON]
Sent: 9/28/2018 2:59:20 PM
To: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]; Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
CC: Packard, Elise [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6d4ad4c6abb24f54a2c8c16fa17ba0fd-Packard, El]; Cozad, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4a30a28be6a74d3da779bb7f7b34a876-COZAD, DAVID]; Monson, Mahri [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fe16c321270a466c90286d60e81b292c-Mmonson]; Clarke, Victoria [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Clarke, Victoria]
Subject: RE: Comments on Sen Whitehouse Letter
Attachments: Whitehouse Wehrum Recusal for Signature.docx; Wehrum signed recusal 9_17_18.pdf; Wehrum signed EA compliance 9_27_18.pdf

Kevin,

Here are the changes to the Whitehouse letter, along with the signed copy of Bill's recusal statement and his updated ethics agreement compliance form. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

I'm teleworking and reachable at my office number, and Victoria is in the office today.

Thanks,
Shannon

Shannon Griffo
 Ethics Attorney
 Office of General Counsel, Ethics
 U.S. Environmental Protection Agency
 (202) 564-7061
 Griffo.Shannon@epa.gov

From: Minoli, Kevin
Sent: Friday, September 28, 2018 3:04 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Cc: Packard, Elise <Packard.Elise@epa.gov>; Cozad, David <Cozad.David@epa.gov>; Monson, Mahri <Monson.Mahri@epa.gov>
Subject: Comments on Sen Whitehouse Letter

Attached are hand written notes on the Whitehouse letter. Some are probably hard to decipher, so I will be available later today to translate.

Deliberative Process / Ex. 5

Thanks, Kevin

Kevin S. Minoli

Principal Deputy General Counsel
& Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8064

Message

From: Gaeta, Joe (Whitehouse) [Joe_Gaeta@whitehouse.senate.gov]
Sent: 2/22/2018 7:55:01 PM
To: Aarons, Kyle [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ef85c3c00a2244779c4b26ff6bc6ccc9-Aarons, Kyl]
Subject: RE: Response to OGE 201 Requests from Joseph Gaeta & Emily Enderle
Attachments: David Harlow Recusal Statement 12_28_17.pdf

Thank you Margaret. Dropping you and Justina to bcc

Hi Kyle,

I'm looking for Bill Wehrum's recusal statement, like David Harlow's (attached here) I can send over a Senator-signed letter if necessary but would prefer not to if you can help with this straightforward request. Thanks.

Joe

From: Ross, Margaret [mailto:Ross.Margaret@epa.gov]
Sent: Thursday, February 22, 2018 11:45 AM
To: Gaeta, Joe (Whitehouse) <Joe_Gaeta@whitehouse.senate.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>
Subject: RE: Response to OGE 201 Requests from Joseph Gaeta & Emily Enderle

Hi Joe,

You should contact Kyle Aarons (copied here), in EPA's Office of Congressional and Intergovernmental Relations (OCIR), regarding your request for Mr. Wehrum's recusal statement.

Kyle Aarons
Aarons.kyle@Epa.gov

Best,
 Margaret

Margaret Ross | Ethics Officer | Office of General Counsel | US EPA | William Jefferson Clinton Federal Building Room 4310A North | Washington, DC 20460 (for ground deliveries: 20004) | phone 202-564-3221

From: Gaeta, Joe (Whitehouse) [mailto:Joe_Gaeta@whitehouse.senate.gov]
Sent: Wednesday, February 21, 2018 1:03 PM
To: Ross, Margaret <Ross.Margaret@epa.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: RE: Response to OGE 201 Requests from Joseph Gaeta & Emily Enderle

Thank you for this information, Margaret.

Separately, I am looking for a copy of William Wehrum's recusal statement (similar to the one attached). I have been advised it is complete. I was about to fill out an OGE 201 request, but I do not see that specific document listed as a "covered record." Is that something you can provide? Thank you.

Joe

From: Ross, Margaret [<mailto:Ross.Margaret@epa.gov>]
Sent: Monday, February 19, 2018 11:12 AM
To: Gaeta, Joe (Whitehouse) <Joe_Gaeta@whitehouse.senate.gov>
Cc: Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Response to OGE 201 Requests from Joseph Gaeta & Emily Enderle

Greetings.

Attached are the remaining materials related to your OGE 201 request. Please see below for EPA's record of all of your requests and the EPA's responses. This OGE 201 request is now filled.

This request also fulfills the request submitted by Emily Enderle, also of the Office of Senator Whitehouse, submitted May 12, 2017, which overlaps entirely with the prior request by Mr. Gaeta. Mr. Gaeta informed the EPA that Ms. Enderle is no longer employed by the Senator.

Please let me know if you have any questions.

Best,
 Margaret Ross

| Request # | Requested 278 | Requested by | Requesting Org | Date Received | 2/17 status | Date of response or closure |
|-----------|---------------------------|--------------|---------------------------|---------------|---|-----------------------------|
| 3 | Bangerter, R. Layne | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 5/11/2017 |
| 3 | Beck, Nancy | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 6/29/2017 |
| 3 | Bennett, Elizabeth "Tate" | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 1/9/2018 |
| | | | | | Transferred to Selective Service System. Please contact Rudy Sanchez, Designated Agency Ethics Official at rsanchez@sss.gov or 703-605-4012 | |
| 3 | Benton, Donald | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 5/5/2017 |
| 3 | Bolen, Brittany | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 5/16/2017 |
| 3 | Bowman, Liz | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 8/4/2017 |
| 3 | Brown, Byron | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 6/29/2017 |
| 3 | Chmielewski, Kevin | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | No responsive documents | 2/17/2018 |
| 3 | Davis, Patrick J. | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 5/5/2017 |
| 3 | Dravis, Samantha | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 5/11/2017 |

| | | | | | | |
|---|-------------------------|--------------|---------------------------|-----------|---------------------|-----------|
| 3 | Erickson, Douglas | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 5/5/2017 |
| 3 | Falvo, Nicholas | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 6/29/2017 |
| 3 | Ferguson, Lincoln | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Attached | 2/17/2018 |
| 3 | Ford, Hayley | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 6/29/2017 |
| 3 | Fotouhi, David | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 6/29/2017 |
| 3 | Freire, J.P. | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 8/4/2017 |
| 3 | Graham, Amy | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 1/9/2018 |
| 3 | Greaves, Holly | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 5/5/2017 |
| 3 | Greenwalt, Sarah | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Attached | 2/17/2018 |
| 3 | Gunasekara, Amanda | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 5/11/2017 |
| 3 | Hale, Dawn Michelle | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 6/29/2017 |
| 3 | Henderson, Austin Brady | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | No Such Filer | 1/9/2018 |
| 3 | Hupp, Millan | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Attached | 2/17/2018 |
| 3 | Hupp, Syndey | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Attached | 2/17/2018 |
| 3 | Jackson, Ryan | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 6/29/2017 |
| 3 | Kelly, Albert | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Attached | 2/17/2018 |
| 3 | Konkus, David | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | No Such Filer | 5/5/2017 |
| 3 | Konkus, John | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 6/29/2017 |
| 3 | Kreutzer, David | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 5/5/2017 |
| 3 | Lyons, Troy | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Attached | 2/17/2018 |
| 3 | McMurray, Forrest | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 8/4/2017 |
| 3 | Munoz, Charles | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 5/5/2017 |
| 3 | Palich, Christian | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 1/9/2018 |
| 3 | Ringel, Aaron | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 1/9/2018 |
| 3 | Schnare, David | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 5/5/2017 |

| | | | | | | |
|---|------------------|--------------|---------------------------|-----------|---------------------|-----------|
| 3 | Schnare, David | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 5/5/2017 |
| 3 | Schwab, Justin | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 5/5/2017 |
| 3 | Sugiyama, George | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Attached | 2/17/2018 |
| 3 | Wagner, Kenneth | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 1/9/2018 |
| 3 | Wilcox, Jahan | Joseph Gaeta | Office of Sen. Whitehouse | 3/24/2017 | Previously Released | 6/29/2017 |

Margaret Ross | Ethics Officer | Office of General Counsel | US EPA | William Jefferson Clinton Federal Building Room 4310A North | Washington, DC 20460 (for ground deliveries: 20004) | phone 202-564-3221

Appointment

From: Aarons, Kyle [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EF85C3C00A2244779C4B26FF6BC6CCC9-AARONS, KYL]
Sent: 9/6/2018 9:34:43 PM
To: Knapp, Kristien [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8d4ab10c47264bca8b12174cdb981942-KKnapp]; Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]; Frye, Tony (Robert) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=58c08abdfc1b4129a10456b78e6fc2e1-Frye, Rober]; Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Brazauskas, Joseph [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=babf7b77aeec4ffead446bb35e05b24-Brazauskas,]
Subject: Whitehouse Wehrum letter
Attachments: 2018-09-04 Letter to Minoli.pdf; Carper 7-31-18 (Ethics).pdf; Carper Enforcement 12-21-17.pdf; Whitehouse Wehrum Recusal 4-25-18.pdf
Location: DCRoomARN3428/OCIR
Start: 9/11/2018 2:30:00 PM
End: 9/11/2018 3:00:00 PM
Show Time As: Tentative

UPDATE: Moving to Tuesday at 10:30AM

This is to discuss the new letter from Senator Whitehouse about Bill Wehrum's recusal. I'm also attaching Whitehouse's 4-25-18 letter on this topic, as well as a 12-21-17 letter from Carper that also addresses Wehrum and ethics. We responded to the Carper letter on 7-31-18. I assume Whitehouse has seen this recent letter, but we did not send it directly to him.

-Kyle

SHELDON WHITEHOUSE
RHODE ISLAND

COMMITTEES:
BUDGET
ENVIRONMENT AND PUBLIC WORKS
FINANCE
JUDICIARY

United States Senate

WASHINGTON, DC 20510-3905

<http://whitehouse.senate.gov>

(202) 224-2621
TTY (202) 224-7748

170 West Main Street, Suite 200
Providence, RI 02903
(401) 463-6294

April 25, 2018

The Honorable Scott Pruitt
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

Dear Administrator Pruitt,

I write to inquire about unexplained delays in the disclosure of a recusal statement for William Wehrum, Associate Administrator for the Office of Air and Radiation [OAR] at the Environmental Protection Agency [EPA]. Based on my review of Office of Government Ethics [OGE] regulations and public records, Mr. Wehrum should have, by now, come into full compliance with his August 28, 2017, ethics agreement with EPA. If that is not yet the case, it would suggest a breakdown in the ethics compliance process at EPA and could mean Mr. Wehrum has been working on matters from which he should be recused.

The Associate Administrator for OAR is a Senate-confirmed position. Accordingly, prior to his nomination hearing before the Senate Environment and Public Works Committee, Mr. Wehrum entered into an agreement with EPA to recuse himself from participating in particular matters in which he may have a conflict of interest due to his financial holdings, or matters involving his former law firm or clients. He promised to document his compliance with his ethics agreement within 90 days of his confirmation. Mr. Wehrum was confirmed by the United States Senate on November 9, 2017 and according to OGE, Mr. Wehrum was due to come into compliance with his ethics obligations by February 14, 2018.

Mr. Wehrum's "Certification of Ethics Agreement Compliance" is available on OGE's website.¹ It is signed by him and dated December 7, 2017. On that form, Mr. Wehrum represented the following:

- With respect to whether he had recused himself from particular matters in which he would have a personal or imputed financial interest, Mr. Wehrum originally indicated "no," then revised his form on December 19, 2017, creating by hand a new option—"n/a"—that is not available on OGE's official form.
- With respect to whether he had recused himself from particular matters related to former employers or clients, Mr. Wehrum indicated "yes."

It is my understanding that the recusals are memorialized in "recusal statements" negotiated between career ethics officials and nominees once they are confirmed. Presumably, Mr.

¹ Mr. Wehrum's certification form can be retrieved at <https://extapps2.oge.gov/201/Presiden.nsf/201+Request?OpenForm>.

Wehrum's recusal statement was complete when he signed his "Certification of Ethics Agreement Compliance" on December 7, 2017.

My office first requested Mr. Wehrum's recusal statement on February 21, 2018 from ethics officials in your Office of General Counsel. That request was transferred to the Office of Congressional and Intergovernmental Relations. My staff repeated its request for this document on March 16, 2018, March 22, 2018, and April 23, 2018. To date, that document still has not been produced.

Recusal statements are important documents because they memorialize, after a particularized analysis by agency ethics officials, which matters EPA staff cannot participate in to remain in compliance with federal ethics laws and regulations. They also memorialize whether any waivers have been granted to these rules, and if so, why.

Mr. Wehrum was an attorney with the law firm of Hunton & Williams prior to his appointment, at which he and his law partners represented utilities and others with business before, and in litigation against, EPA, particularly on matters related to the Clean Air Act. Mr. Wehrum now interprets and enforces that Act. This litigation has obviously continued during Mr. Wehrum's tenure, and the agency has issued guidance and policies, like its December 7, 2017 memo on New Source Review Preconstruction Permitting Requirements,² closely related to matters Mr. Wehrum handled in private practice. The public does not know whether the agency has concluded that Mr. Wehrum has conflicts of interest in these matters and if so, what steps have been taken to address them.

I request that you provide my office with a copy of Mr. Wehrum's recusal statement by May 2, 2018. If you cannot, or if the statement is dated after December 7, 2017, I request you explain how Mr. Wehrum's ethical obligations have been policed since that date. Finally, I request an explanation of why Mr. Wehrum was authorized to assert that recusals related to his personal or imputed financial interests did not apply to him, and how that has affected the agency's ethics analysis. Please contact Joe Gaeta (joe_gaeta@whitehouse.senate.gov) of my staff with any inquiries you have about this request.

Sincerely,



Sheldon Whitehouse
United States Senator

cc: Kevin Minoli, Designated Agency Ethics Official, U.S. Environmental Protection Agency

Troy Lyons, Associate Administrator, Office of Congressional and Intergovernmental Relations, U.S. Environmental Protection Agency

² Memorandum from E. Scott Pruitt, Administrator, to EPA Regional Administrators, dated Dec. 7, 2017, available at <https://www.epa.gov/nsr/new-source-review-preconstruction-permitting-requirements-enforceability-and-use-actual>

Message

From: Griffo, Shannon [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6C901EB2C3BA4556A4A581B8816D5A9A-VALLANCE, SHANNON]
Sent: 11/20/2017 6:53:00 PM
To: Clarke, Victoria [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Clarke, Victoria]
CC: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
Subject: more FOIA ethics documents
Attachments: Bill Wehrum signed pledge.pdf; Cosmo Servidio impartiality determination 11_15_17.pdf; Benevento, Douglas CD.pdf

Victoria,

Here is the latest round of non-email ethics documents ready for review.

- Bill Wehrum's signed ethics pledge – it might not be responsive to any current FOIAs, but it's likely to be in the future. And OCIR always sends these forward. So please include it with the latest batch of documents you send to Kyle. Or let me know if you prefer I start sending over the signed ethics pledges.
- Impartiality Determination for Cosmo Servidio – EPA-HQ-2018-000554 (Kevin Bogardus); EPA-HQ-2018-000849 (Bill Allison)
- Certificate of Divestiture for Doug Benevento – EPA-HQ-2018-000555 (Kevin Bogardus)

You've seen all of the other signed ethics pledges I sent to OCIR, as well as the ethics note for Lee Forsgren. Those can also be added to FEAT's list of non-email ethics documents.

Thanks!!
Shannon


Shannon Griffo
Ethics Attorney
Office of General Counsel, Ethics
U.S. Environmental Protection Agency
(202) 564-7061
Griffo.Shannon@epa.gov



ETHICS PLEDGE

As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.
2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.
3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.
4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.
5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.
6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.
7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.
8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.
9. I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Appointees," issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service.


Signature

11-14 20 17
Date

William L. Wehrum
Print or type your full name (last, first, middle)

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 7/25/2018 12:59:25 AM
To: Knapp, Kristien [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8d4ab10c47264bca8b12174cdb981942-KKnapp]
CC: Aarons, Kyle [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ef85c3c00a2244779c4b26ff6bc6ccc9-Aarons, Kyl]; Clarke, Victoria [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Clarke, Victoria]
Subject: FW: Oversight letter
Attachments: Carper Enforcement 12-21-17.pdf; OGC Ethics Signed Letter.pdf; image2018-07-24-124129.pdf

Deliberative Process / Ex. 5

From: Knapp, Kristien
Sent: Tuesday, July 24, 2018 2:13 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Aarons, Kyle <Aarons.Kyle@epa.gov>
Subject: Oversight letter

Hi Justina –

We're looking to clear out some of our older oversight requests. We have this one from Senator Carper about enforcement, **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Thanks,
Kristien

Kristien Knapp
Legislative and Oversight Counsel
Office of Congressional Affairs
U.S. Environmental Protection Agency
(202) 564-3277

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 9/27/2018 7:11:57 PM
To: Dale A. Christopher [dachrist@oge.gov]
CC: Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]; Douglas L. Chapman [dlchapma@oge.gov]
Subject: RE: Wehrum ethics compliance agreement -- update
Attachments: signed EA compliance v3.pdf

Hi there,

Here is the updated form from Bill Wehrum.

Deliberative Process / Ex. 5

Justina

Justina Fugh | Director, Ethics Law Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

From: Dale A. Christopher [mailto:dachrist@oge.gov]
Sent: Thursday, September 27, 2018 11:01 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Griffo, Shannon <Griffo.Shannon@epa.gov>; Douglas L. Chapman <dlchapma@oge.gov>
Subject: RE: Wehrum ethics compliance agreement -- update

J,

Deliberative Process / Ex. 5

And congrats to both you and Shannon on the permanent assignment!

Chip

From: Fugh, Justina [mailto:Fugh.Justina@epa.gov]
Sent: Wednesday, September 26, 2018 11:18 AM
To: Dale A. Christopher
Cc: Griffo, Shannon
Subject: Wehrum ethics compliance agreement -- update

Hi Chip,

Deliberative Process / Ex. 5

Justina

PS -- I'm not sure if you've met Shannon yet, but she was detailed to EPA Ethics for a year and recently was permanently reassigned to us, to my everlasting delight.

Justina Fugh | Director, Ethics Law Office | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

OGE Confidential Notice: This message may contain Controlled Unclassified Information (CUI) that requires safeguarding or dissemination control under applicable law, regulation, or Government-wide policy. This email, including all attachments, may constitute a Federal record or other Government property that is intended only for the use of the individual or entity to which it is addressed. If you are not the intended recipient or the employee or agent responsible for delivering the transmission to the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of this email or its contents is strictly prohibited. If you have received this email in error, please notify the sender by responding to the email and then immediately delete the email.

Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 9/24/2018 4:23:10 PM
To: Clarke, Victoria [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Clarke, Victoria]
CC: Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
Subject: can you write a quick response to this incoming congressional?
Attachments: 2018-09-04 Letter to Minoli.pdf; Whitehouse Wehrum Recusal 9-6-18.docx; image2018-09-17-143140.pdf; DAEO memo to Bill Wehrum jf comments.docx

Hi Victoria,

Attached is the incoming from Sen Whitehouse.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 I'd like to get it before Kevin tomorrow, please.

Thanks,
Justina

Appointment

From: Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]
Sent: 8/30/2018 5:18:45 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; OARINVITATIONS [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e9706ba8d3d6413980dc908f0068e421-OARINVITATI]
Subject: Copy: Environmental Law Institute's 2018 Award Dinner | | Pre Dinner Reception
Attachments: FW: Complimentary Invitation to the Environmental Law Institute's 2018 Award Dinner; Fwd: Ethics advice concerning your invitation to the ELI dinner; Fwd: Ethics advice concerning your invitation to the ELI dinner
Location: Omni Shoreham Hotel in Washington, D.C.
Start: 10/23/2018 9:30:00 PM
End: 10/23/2018 11:30:00 PM
Show Time As: Busy

Message

From: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
Sent: 8/30/2018 2:15:37 PM
To: Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]; Rakosnik, Delaney [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=274573739a9f446883072599086ededd-Rakosnik, D]
CC: Monroe, Scott [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2c66d1cb877417db50c4f90b30ad2ca-SMONROE]; Shaw, Betsy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31ca1476a7674825a131cb2c0d6c88c8-BShaw03]
Subject: FW: Complimentary Invitation to the Environmental Law Institute's 2018 Award Dinner
Attachments: Fwd: Ethics advice concerning your invitation to the ELI dinner

Bill confirmed this morning that he would like to accept this invitation from ELI.

Betsy/Scott: Attached is the email from Justina related to this event...

From: Wehrum, Bill
Sent: Wednesday, August 29, 2018 4:08 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Subject: Fwd: Complimentary Invitation to the Environmental Law Institute's 2018 Award Dinner

Here is the invitation to the ELI dinner.

Bill Wehrum
 Assistant Administrator
 Office of Air and Radiation
 U.S. Environmental Protection Agency
 (202) 564-7404

Begin forwarded message:

From: Campbell Knobloch <knobloch@eli.org>
Date: August 29, 2018 at 3:40:01 PM EDT
To: "Wehrum, William" <Wehrum.william@epa.gov>
Subject: Complimentary Invitation to the Environmental Law Institute's 2018 Award Dinner

Mr. Bill Wehrum
 Assistant Administrator, Office of Air and Radiation
 U.S. Environmental Protection Agency

Dear Mr. Wehrum,

This is a non-transferable complimentary invitation to the Environmental Law Institute's 2018 Award Dinner honoring Lisa Jackson, Apple's Vice President of Environment, Policy and Social Initiatives. The Dinner will be held on October 23, 2018 at the Omni Shoreham Hotel in

Washington, D.C. Registration will begin at 5:00 p.m., with a pre-dinner reception beginning at 5:30, and dinner to follow at 7:30 p.m.

Attendance at ELI's Award Dinner has not been prohibited in the past by ethical guidance from United States government departments; however, please consult as appropriate within your State agency prior to accepting this invitation. Should ethics rules or conflict of interest policies require you to pay, you may send a check (payable to the Environmental Law Institute) to 1730 M Street, NW, Suite 700, Washington, D.C. 20036) in the amount of \$200 to cover the actual value of the discounted government/academic/nonprofit rate ticket.

We hope you'll be able to join us for Washington's premier annual event for environmental professionals from around the country. Please RSVP as soon as possible to Melodie DeMulling, Director of Development at demulling@eli.org or 202-939-3808 regarding your availability to attend the Award Dinner.

Sincerely,

Campbell Knobloch

Development Intern

Environmental Law Institute

knobloch@eli.org

Message

From: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Sent: 8/29/2018 8:11:56 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: Fwd: Ethics advice concerning your invitation to the ELI dinner

FYI

Bill Wehrum
 Assistant Administrator
 Office of Air and Radiation
 U.S. Environmental Protection Agency
 (202) 564-7404

Begin forwarded message:

From: "Fugh, Justina" <Fugh.Justina@epa.gov>
Date: August 29, 2018 at 2:12:49 PM EDT
To: "Beck, Nancy" <Beck.Nancy@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>, "Cook, Steven" <cook.steven@epa.gov>, "Darwin, Henry" <darwin.henry@epa.gov>, "Fotouhi, David" <Fotouhi.David@epa.gov>, "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>, "Schwab, Justin" <Schwab.Justin@epa.gov>, "Wagner, Kenneth" <wagner.kenneth@epa.gov>, "Wehrum, Bill" <Wehrum.Bill@epa.gov>, "Wildeman, Anna" <wildeman.anna@epa.gov>, "Woods, Clint" <woods.clint@epa.gov>, "Wright, Peter" <wright.peter@epa.gov>
Subject: Ethics advice concerning your invitation to the ELI dinner

Hi there,

OGC/Ethics understands that you have received or will soon receive an invitation from the Environmental Law Institute (ELI) to be its guest at its annual awards dinner to be held this year on October 23, 2018 at the Omni Shoreham Hotel. I am writing to confirm that, if you decide to attend this event, you may do so consistent with the Standards of Ethical Conduct for Employees of the Executive Branch and the Trump ethics pledge that you signed (if you were required to do so).

This event qualifies for the Widely-Attended-Gathering gift exception and the donor is not a federally registered lobbyist. Thus, OGC/Ethics determines that your attendance at the event is in the Agency's interest because it will further agency programs and operations. Should you attend this event, you will NOT be required to report this as a gift on your financial disclosure report form because the gift is valued at \$275, which is BELOW the reporting threshold.

Please note: this approval applies only to invitations from ELI itself. Any invitations from other sources will require separate determinations by either OGC or the appropriate Deputy Ethics

Official. This determination covers you only -- the invitation is not transferable and is not intended for more than just one attendee.

Acceptance of Free Attendance to a Dinner and Fundraiser (WAG rule)

The gift offered is an evening reception and dinner sponsored by ELI. Because the organization is offering you a complimentary ticket, we must analyze it according to the gift rules. Generally, federal employees are prohibited from accepting gifts given because of their official position or given by a prohibited source (typically, a person either regulated by or seeking to do business with the EPA). In this instance, the gift of free attendance is offered to you because of your official position. In analyzing the situation, we determined that the WAG exception is available because the reception will be widely attended, there will be a diversity of views represented, and there is an opportunity for the exchange of ideas. In order to utilize this gift exception, OGC/Ethics must also make a written determination that we believe your attendance is in the Agency's interest. We do, in fact, conclude that there is an Agency interest in your attendance if you wish to go.

Limitations Due to the Fundraiser Event

Please note that this event is a fundraiser. Therefore, ELI cannot use or reference your official position or title or any authority associated with your public office in furtherance of the fundraising effort. You may not actively or visibly participate in the promotion, production, or presentation of the event, which means that you cannot sit at a head table nor stand in a receiving line. We have confirmed with ELI that you will be placed by ELI and not seated at the request of any sponsoring entity that has bought a table.

Please let me know if you have any questions.

Regards,
justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 12/6/2017 7:16:51 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beaddda2affa44-Harlow, Dav]
Subject: FW: Release of Bill Wehrum's ethics pledge
Attachments: signed ethics pledges 12_6_17.pdf

Bill,

I likely won't see you in the next 1-2 hours, which is roughly when OCIR is going to release your ethics pledge – along w/ a group of others (see attached) - to House Energy and Commerce in response to a request from the committee. Not sure there's much we can do given the late notice. Wanted you to be aware.

Josh

From: Aarons, Kyle
Sent: Wednesday, December 06, 2017 1:32 PM
To: Lubetsky, Jonathan <Lubetsky.Jonathan@epa.gov>
Cc: Knapp, Kristien <Knapp.Kristien@epa.gov>; Yaeger, Ryan <Yaeger.Ryan@epa.gov>
Subject: Release of Bill Wehrum's ethics pledge

Hi Jonathan – In response to an oversight request from House Energy & Commerce, we are going to release Bill's signed ethics pledge today. Senate EPW has asked us to keep them updated on ethics releases, so we will send to them as well.

Please let me know if OAR has any concerns.

Thanks,
Kyle


Kyle Aarons
Congressional Affairs
U.S. Environmental Protection Agency
202-564-7351



ETHICS PLEDGE

As a condition, and in consideration, of my employment in the United States Government in an appointee position invested with the public trust, I commit myself to the following obligations, which I understand are binding on me and are enforceable under law:

1. I will not, within 5 years after the termination of my employment as an appointee in any executive agency in which I am appointed to serve, engage in lobbying activities with respect to that agency.
2. If, upon my departure from the Government, I am covered by the post-employment restrictions on communicating with employees of my former executive agency set forth in section 207(c) of title 18, United States Code, I agree that I will abide by those restrictions.
3. In addition to abiding by the limitations of paragraphs 1 and 2, I also agree, upon leaving Government service, not to engage in lobbying activities with respect to any covered executive branch official or non-career Senior Executive Service appointee for the remainder of the Administration.
4. I will not, at any time after the termination of my employment in the United States Government, engage in any activity on behalf of any foreign government or foreign political party which, were it undertaken on January 20, 2017, would require me to register under the Foreign Agents Registration Act of 1938, as amended.
5. I will not accept gifts from registered lobbyists or lobbying organizations for the duration of my service as an appointee.
6. I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.
7. If I was a registered lobbyist within the 2 years before the date of my appointment, in addition to abiding by the limitations of paragraph 6, I will not for a period of 2 years after the date of my appointment participate in any particular matter on which I lobbied within the 2 years before the date of my appointment or participate in the specific issue area in which that particular matter falls.
8. I agree that any hiring or other employment decisions I make will be based on the candidate's qualifications, competence, and experience.
9. I acknowledge that the Executive Order entitled "Ethics Commitments by Executive Branch Appointees," issued by the President on January 28, 2017, which I have read before signing this document, defines certain terms applicable to the foregoing obligations and sets forth the methods for enforcing them. I expressly accept the provisions of that Executive Order as a part of this agreement and as binding on me. I understand that the obligations of this pledge are in addition to any statutory or other legal restrictions applicable to me by virtue of Government service.


Signature

11-14 20 17
Date

William L. Wehrum
Print or type your full name (last, first, middle)



ETHICS PLEDGE

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Signature

11/20, 2017
Date

MARCELLA BURKE

Print or type your full name (last, first, middle)



ETHICS PLEDGE

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Kelley R. Kunding
Signature

11/28, 2017
Date

Kunding, Kelley, Reagan
Print or type your full name (last, first, middle)



ETHICS PLEDGE

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Kelsi L. Daniell
Signature

12/5/17, 20____
Date

Kelsi Daniell, kelsi, Lane
Print or type your full name (last, first, middle)



ETHICS PLEDGE

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C. P. Hanson

Signature

5 Dec., 20 17

Date

Hanson, Catherine P

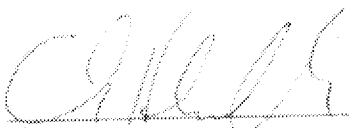
Print or type your full name (last, first, middle)




ETHICS PLEDGE

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Signature


Date


Print or type your full name (last, first, middle)

Appointment

From: Atkinson, Emily [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BB2155ADEF6A44AEA9410741F0C01D27-ATKINSON, EMILY]
Sent: 1/5/2018 1:46:01 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beaddda2affa44-Harlow, Dav]; Woods, Clint [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clin]
Subject: Bill Charmley will pick you four up with your luggage to take you to the auto show
Attachments: RE: Detroit Auto Show - OAR IO Politicals
Location: Honda CRV

Start: 1/16/2018 12:15:00 PM
End: 1/16/2018 12:15:00 PM
Show Time As: Tentative

Message

From: Charmley, William [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FB1828FB00AF42FFB68B9E0A71626D95-CHARMLEY, WILLIAM]
Sent: 1/5/2018 1:33:49 PM
To: Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]
CC: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Simon, Karl [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4d781d1ad595415db3a4e768c2d2b3fc-Simon, Karl]; Watkins, Erica [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=13f4969d64f849f1b583efeb476fa9bf-Watkins, Erica]; Cook, Leila [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=d4536ad140a1461781d78ca67921b02f-Cook, Leila]
Subject: RE: Detroit Auto Show - OAR IO Politicals
Attachments: CARBEPA NAIAS Tour Schedule, Jan 4, 2018 version.docx

Dear Emily,

The Alliance provided an agenda for the EPA tour group yesterday, which I have attached. They indicated it is still draft, and they also explained that folks from other organizations may be part of our group – CARB, and perhaps folks from DOT/NHTSA.

Give the start time, and how busy it will be in downtown Detroit near the auto show, **I would like to pick up Bill, Mandy, David and Clint at their hotel at 7:15am on Tuesday morning.**

Also – you may have heard that yesterday, Bill Wehrum informed Chris that Mike Catanzaro from the White House will be joining our group. That is great, but I did want to explain that if it turns out Mike Catanzaro stays at the same hotel as the OAR leadership, I will not be able to give the 4 OAR senior leaders and Mr. Catanzaro a ride, my car is simply not large enough for 6 people.

Thanks
 Bill

From: Atkinson, Emily
Sent: Wednesday, January 03, 2018 1:45 PM
To: Charmley, William <charmley.william@epa.gov>
Cc: Lewis, Josh <Lewis.Josh@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>; Watkins, Erica <Watkins.Erica@epa.gov>; Cook, Leila <cook.leila@epa.gov>
Subject: RE: Detroit Auto Show - OAR IO Politicals

Perfect – thanks Bill for coordinating with Karl for the group to get a ride to Ann Arbor after the Auto Show.

As far as the pickup the morning of the Auto Show – what time should I tell the group to be ready?

Emily Atkinson
Management Analyst/Office Manager
Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
Room 5412B, 1200 Pennsylvania Avenue NW
Washington, DC 20460
Voice: 202-564-1850
Email: atkinson.emily@epa.gov

From: Charmley, William
Sent: Wednesday, January 03, 2018 1:39 PM
To: Atkinson, Emily <Atkinson.Emily@epa.gov>
Cc: Lewis, Josh <Lewis.Josh@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>; Watkins, Erica <Watkins.Erica@epa.gov>;
Cook, Leila <cook.leila@epa.gov>
Subject: RE: Detroit Auto Show - OAR IO Politicals

Dear Emily,

Regarding the question #4, a ride from the dinner to the Ann Arbor hotel for the 4 OAR leaders.

It turns out that Karl Simon is staying at that same hotel, the Hampton Inn in Ann Arbor.

So, Karl told me he will get a larger rental car, and he can drive Bill/Mandy/David/Clint from the Auto Alliance dinner to their hotel in Ann Arbor.

Thanks,
Bill

From: Charmley, William
Sent: Tuesday, January 02, 2018 3:09 PM
To: Atkinson, Emily <Atkinson.Emily@epa.gov>
Cc: Lewis, Josh <Lewis.Josh@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>; Watkins, Erica <watkins.eric@epa.gov>;
Cook, Leila <cook.leila@epa.gov>
Subject: RE: Detroit Auto Show - OAR IO Politicals

Dear Emily –

You asked 4 questions in this email.

1. **Can I (Bill Charmley) give Bill, David, Mandy and Clint a ride from the Courtyard Detroit Southfield hotel to the auto show on the morning of Tuesday, January 16?**

Yes – it will be a little tight in my Honda CRV, but this shouldn't be a problem. I will have room for all 4 plus their luggage.

2. **Have we received an invitation to the Tuesday evening reception/dinner?**

Yes – the invitation is from the Auto Alliance, and it is included in the Auto Alliance’s invitation to the auto show. I will forward to you the email I have with the invitation.

Deliberative Process / Ex. 5

4. Can I give the 4 OAR leadership members a ride to their hotel in Ann Arbor after the reception/dinner

Unfortunately I will not be able to do this, as I don’t live in or near Ann Arbor. I will check with a few others from Ann Arbor to see if we can figure something out. I’ll get back to you on that option by COB tomorrow (Jan 3).

Thanks
Bill

From: Bunker, Byron
Sent: Tuesday, January 02, 2018 12:52 PM
To: Atkinson, Emily <Atkinson.Emily@epa.gov>
Cc: Lewis, Josh <Lewis.Josh@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>; Charmley, William <charmley.william@epa.gov>
Subject: RE: Detroit Auto Show - OAR IO Politicals

Hi Emily,

Bill Charmley is on point for the Auto Show plans and will follow up on your note later today.

Thanks,

Byron

Byron Bunker
 Director Compliance Division
 Office of Transportation and Air Quality
 Environmental Protection Agency
 2000 Traverwood Drive
 Ann Arbor, MI 48105
Bunker.Byron@epa.gov
 Phone: (734) 214-4155
 Mobile: (734) 353-9623

From: Atkinson, Emily
Sent: Tuesday, January 02, 2018 12:37 PM
To: Bunker, Byron <bunker.byron@epa.gov>

Cc: Lewis, Josh <Lewis.Josh@epa.gov>; Simon, Karl <Simon.Karl@epa.gov>

Subject: Detroit Auto Show - OAR IO Politicals

Hi Byron,

Just want to circle back about logistics for the upcoming Detroit Auto Show.

The politicals – Bill, David, Mandy and Clint – all arrive in Detroit around 7pm on Monday, January 15 and are booked at the Courtyard Detroit Southfield, 27027 Northwestern Highway, Southfield, MI. They plan to take a taxi from the airport to the hotel that evening.

At one point you had mentioned it would be possible for you to pick Bill up the morning of the show. Let me know if it is still an option for the group to catch a ride with you the morning of Tuesday, January 16 into the Detroit Auto Show.

Also, this group plans to participate in the reception and dinner that evening but we haven't seen an official invite from the host. Have you all received one yet?

Deliberative Process / Ex. 5

This group is booked at the Ann Arbor Hampton Inn the night of Tuesday, January 16. Any chance they could catch a ride with you there after the auto show reception and dinner?

Emily Atkinson
Management Analyst/Office Manager
Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
Room 5412B, 1200 Pennsylvania Avenue NW
Washington, DC 20460
Voice: 202-564-1850
Email: atkinson.emily@epa.gov

CARB/EPA NAIAS Tour Schedule
Cobo Center, Detroit
Tuesday, January 16, 2017

| | |
|----------------|-------------------------------------|
| 8:00 – 8:20: | Meet at Joe Louis Statue |
| 8:30 – 8:50: | Mercedes Benz |
| 9:00 – 9:20: | BMW |
| 9:30 – 9:50: | Volkswagen |
| 10:00 – 10:20: | Toyota |
| 10:30 – 10:50: | Nissan |
| 11:00 – 11:20: | Hyundai |
| 11:30 – 12:00: | Subaru |
| 12:00 – 12:50: | LUNCH BREAK |
| 1:00 – 1:20: | Kia |
| 1:30 – 1:50: | Denso |
| 2:00 – 2:20: | FCA (formerly Chrysler) |
| 2:30 – 2:50: | Ford |
| 3:00 – 3:20: | General Motors (At Chevrolet Booth) |
| 3:30 – 4:00: | Honda |

Tour Leaders:

Auto Alliance: Steve Douglas, Chris Nevers

Global Automakers: Julia Rege, Amandine Muskus

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 11/18/2017 1:34:25 AM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beaddda2affa44-Harlow, Dav]
Subject: Fwd: Litigation
Attachments: Rules at Issue in Prior WLW D.C. Circuit Cases-c.xlsx; ATT00001.htm

Here is the list of cases from which I will need to be recused.

Sent from my iPhone

Begin forwarded message:

From: "Barnes, Felicia" <FBarnes@hunton.com>
Date: November 17, 2017 at 8:29:09 PM EST
To: "Wehrum, Bill" <Wehrum.Bill@epa.gov>
Subject: RE: Litigation

Attached - lmk if anything is unclear

-----Original Message-----

From: Wehrum, Bill [<mailto:Wehrum.Bill@epa.gov>]
 Sent: Friday, November 17, 2017 7:55 PM
 To: Barnes, Felicia
 Subject: Re: Litigation

Just the rules. Thanks much.

Sent from my iPhone

On Nov 17, 2017, at 7:54 PM, Barnes, Felicia <FBarnes@hunton.com> wrote:

Yes, I can do that. Do you want the client identity and posture (petitioner v. intervenor) too? Or just the rules?

-----Original Message-----

From: Wehrum, Bill [<mailto:Wehrum.Bill@epa.gov>]
 Sent: Friday, November 17, 2017 7:28 PM
 To: Barnes, Felicia
 Subject: Litigation

Felicia - You mentioned the other night that you were helping file withdrawal notices for my cases. Would you please send me a list of the rules that we were challenging in each case? If you didn't figure that out in putting together the withdrawal notices, could you maybe ask Paula to put together a list?

Thanks for your help.

Sent from my iPhone

Message

From: Harlow, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B5A9A34E31FC4FE6B2BEADDDA2AFFA44-HARLOW, DAV]
Sent: 5/2/2018 10:05:19 PM
To: Bowman, Liz [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c3d4d94d3e4b4b1f80904056703ebc80-Bowman, Eli]; Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: RE: Responses re: Harlow

Liz,

Yes, this is fine. I figure that, ultimately, he's just going to write what he wants to write anyhow. In this regard, I recognize that an Eric Lipton isn't really a reporter or a journalist in any conventional sense of those terms. Rather, he's a storyteller. He writes stories that he believes his readers would be interested in reading/would like to read. And I can appreciate that. They've got a business to run. ☺

David S. Harlow
Senior Counsel
Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K
1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

From: Bowman, Liz
Sent: Wednesday, May 2, 2018 5:22 PM
To: Harlow, David <harlow.david@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>
Subject: FW: Responses re: Harlow

FYI – this is what was sent over to The New York Times. If you have edits, I am happy to send them, but I think this addresses his questions. Thank you again for your help – Liz

From: Bowman, Liz
Sent: Wednesday, May 2, 2018 5:22 PM
To: 'Lipton, Eric' <lipton@nytimes.com>
Subject: Responses re: Harlow

Apologies for the delay:

“All EPA political appointees work closely with EPA career officials to understand ethics obligations, and are committed to following their advice and serving professionally in the administration,” **EPA spokesperson.**

On background (not for attribution):

DTE is listed in David Harlow's recusal statement because, while at Hunton, he recorded **one** hour of time to DTE in 2015. He billed no time to DTE in 2016, and no time to DTE from January 1 through September 30, 2017, at which time his employment with Hunton ended. He would, of course, always recuse himself from involvement in the DTE litigation specifically, because of Hunton's involvement. That is a basic bar obligation, not something driven specifically by the Trump ethics pledge.

Additional background responses from David (not for quoting or attribution):

But I have several emails from October, November and December 2018 via FOIA that show that David Harlow was receiving drafts of the New Source memo that discusses the DTE case, a memo that was not finalized until Dec. 7 2018.

As for November and December, David received a copy of the DTE memo, then in draft, on November 27, 2017. Mr. Harlow didn't do any work on the email he received. On December 5th, Mr. Harlow and Bill received an email with a redacted version of the DTE memo (redacting all references to the DTE litigation), in advance of their meeting with OECA on December 6th. On the 7th, they were sent up updated version of the draft, reflecting changes made in response to OECA's input from the meeting.

Separately, I have been told that David provided input to parties, in terms of suggested changes in these drafts that were shared with him.

Mr. Harlow is not aware of providing input on the DTE memo prior to it being issued on Dec. 8th.

Why did he participate in this review?

Mr. Harlow did not participate in any "review" of the DTE memo.

Is it something in retrospect that he concedes was not the right thing to do?

Mr. Harlow is not recused from participating in matters of general applicability, with regard to his former clients. For instance, while UARG is a former client and is involved in the litigation over the Clean Power Plan, Mr. Harlow has always proceeded under the understanding that it was permissible to work on the CPP "repeal" rulemaking. The same applies to the "DTE memo," which is a forward looking guidance memorandum/interpretive rule of general applicability. That does not change the fact that Mr. Harlow, did not provide input on that memo.

Has there been any follow up related to this?

N/A

Has he taken steps to avoid participating in the future in matters that he should be recused from?

Yes. Mr. Harlow follows the advice of career ethics officials with regard to any necessary recusals.

Message

From: Harlow, David [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B5A9A34E31FC4FE6B2BEADDDA2AFFA44-HARLOW, DAV]
Sent: 7/9/2018 9:12:07 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Rush, Alan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=87bd4df8264d4490afe9414cb28062b9-ARush]
CC: Morgan, Ruthw [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=514074e564144982a695e0eaefb1b58e-RMorga02]; Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]; Iglesias, Amber [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ed1da89f33f24b5b9f2c4b9bcf91a2ad-Iglesias, A]; Henigin, Mary [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0cbe828e291f4facb492fc28261db45f-MHenigin]
Subject: RE: Pulp & Paper Denial Action Memo, letter and FR Notice

Thanks for head's up, Josh.

David S. Harlow
Senior Counsel
Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K
1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

From: Lewis, Josh
Sent: Monday, July 9, 2018 4:42 PM
To: Harlow, David <harlow.david@epa.gov>; Rush, Alan <Rush.Alan@epa.gov>
Cc: Morgan, Ruthw <morgan.ruthw@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>; Iglesias, Amber <Iglesias.Amber@epa.gov>; Henigin, Mary <Henigin.Mary@epa.gov>
Subject: RE: Pulp & Paper Denial Action Memo, letter and FR Notice

Status: The package is currently on the third floor and will get signed today...just not sure when.

From: Harlow, David
Sent: Friday, July 06, 2018 1:52 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Rush, Alan <Rush.Alan@epa.gov>
Cc: Morgan, Ruthw <morgan.ruthw@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>; Iglesias, Amber <Iglesias.Amber@epa.gov>; Henigin, Mary <Henigin.Mary@epa.gov>
Subject: RE: Pulp & Paper Denial Action Memo, letter and FR Notice

Josh,

No, Monday is fine. In fact, anticipating that a Monday signature was what was realistically in view, I asked/tasked Emily to have the signature pages redone to reflect Acting Administrator Wheeler's name. I have the package on my desk, and was about to sign the transmittal memo.

David S. Harlow
Senior Counsel
Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K
1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

From: Lewis, Josh
Sent: Friday, July 6, 2018 1:49 PM
To: Rush, Alan <Rush.Alan@epa.gov>; Harlow, David <harlow.david@epa.gov>
Cc: Morgan, Ruthw <morgan.ruthw@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>; Iglesias, Amber <Iglesias.Amber@epa.gov>; Henigin, Mary <Henigin.Mary@epa.gov>
Subject: RE: Pulp & Paper Denial Action Memo, letter and FR Notice

David,

You may have already heard, but this package is likely going to be signed Monday....which acc to Alan's note below seems to be ok timing. If you feel strongly it needs to be today, let's talk at scheduling.

Josh

From: Rush, Alan
Sent: Thursday, July 05, 2018 10:21 AM
To: Harlow, David <harlow.david@epa.gov>
Cc: Morgan, Ruthw <morgan.ruthw@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>; Iglesias, Amber <Iglesias.Amber@epa.gov>; Henigin, Mary <Henigin.Mary@epa.gov>
Subject: Re: Pulp & Paper Denial Action Memo, letter and FR Notice

Thanks, once you've signed the action memo, Josh (or Emily) will let us know and we'll get it moved to OP.

Alan

On Jul 5, 2018, at 10:12 AM, Harlow, David <harlow.david@epa.gov> wrote:

Alan,

Thanks for sending this along. Earlier this week, I had the opportunity to Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

David S. Harlow
Senior Counsel
Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K
1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

From: Rush, Alan
Sent: Thursday, July 5, 2018 9:31 AM
To: Morgan, Ruthw <morgan.ruthw@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>
Cc: Iglesias, Amber <Iglesias.Amber@epa.gov>; Henigin, Mary <Henigin.Mary@epa.gov>; Harlow, David <harlow.david@epa.gov>
Subject: Pulp & Paper Denial Action Memo, letter and FR Notice

Ruth,

Attached for expedited review is the Pulp and Paper Denial package. It also includes the 2017 Earthjustice petition.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

The CMS # is OAR-18-000-7079. Bill Wehrum has recused himself from participation in this action, so David Harlow is POC. Please forward for immediate review.

Thanks,
Alan

Message

From: Atkinson, Emily [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BB2155ADEF6A44AEA9410741F0C01D27-ATKINSON, EMILY]
Sent: 7/6/2018 6:44:45 PM
To: Morgan, Ruthw [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=514074e564144982a695e0eae1b58e-RMorga02]
CC: Rush, Alan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=87bd4df8264d4490afe9414cb28062b9-ARush]; Iglesias, Amber [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=ed1da89f33f24b5b9f2c4b9bcf91a2ad-Iglesias, A]; Henigin, Mary [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0cbe828e291f4facb492fc28261db45f-MHenigin]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beadda2affa44-Harlow, Dav]; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
Subject: RE: Pulp & Paper Denial Action Memo, letter and FR Notice
Attachments: image2018-07-08-145740.pdf; image2018-07-08-150042.pdf

David Harlow has signed the action memo and routing slip (see attached PDFs).

Ruth – I will bring the red folder package down to you in a few minutes.

From: Lewis, Josh
Sent: Friday, July 06, 2018 1:56 PM
To: Harlow, David <harlow.david@epa.gov>
Cc: Rush, Alan <Rush.Alan@epa.gov>; Morgan, Ruthw <morgan.ruthw@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>; Iglesias, Amber <Iglesias.Amber@epa.gov>; Henigin, Mary <Henigin.Mary@epa.gov>
Subject: Re: Pulp & Paper Denial Action Memo, letter and FR Notice

Great

On Jul 6, 2018, at 1:51 PM, Harlow, David <harlow.david@epa.gov> wrote:

Josh,

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David S. Harlow
Senior Counsel
Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K

1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

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Sent: Friday, July 6, 2018 1:49 PM
To: Rush, Alan <Rush.Alan@epa.gov>; Harlow, David <harlow.david@epa.gov>
Cc: Morgan, Ruthw <morgan.ruthw@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>; Iglesias, Amber <Iglesias.Amber@epa.gov>; Henigin, Mary <Henigin.Mary@epa.gov>
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Sent: Thursday, July 05, 2018 10:21 AM
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Cc: Morgan, Ruthw <morgan.ruthw@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>; Iglesias, Amber <Iglesias.Amber@epa.gov>; Henigin, Mary <Henigin.Mary@epa.gov>
Subject: Re: Pulp & Paper Denial Action Memo, letter and FR Notice

Thanks, once you've signed the action memo, Josh (or Emily) will let us know and we'll get it moved to OP.

Alan

On Jul 5, 2018, at 10:12 AM, Harlow, David <harlow.david@epa.gov> wrote:

Alan,

Thanks for sending this along. Earlier this week, I had the opportunity to

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

David S. Harlow
Senior Counsel
Immediate Office of the Assistant Administrator
Office of Air and Radiation, USEPA
WJC-N Room 5409K

1200 Pennsylvania Avenue NW
Washington, DC 20460
202-564-1233
Harlow.David@epa.gov

From: Rush, Alan
Sent: Thursday, July 5, 2018 9:31 AM
To: Morgan, Ruthw <morgan.ruthw@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>;
Atkinson, Emily <Atkinson.Emily@epa.gov>
Cc: Iglesias, Amber <Iglesias.Amber@epa.gov>; Henigin, Mary
<Henigin.Mary@epa.gov>; Harlow, David <harlow.david@epa.gov>
Subject: Pulp & Paper Denial Action Memo, letter and FR Notice

Ruth,

Attached for expedited review is the Pulp and Paper Denial package. It also includes the 2017 Earthjustice petition.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 | The CMS # is OAR-18-000-7079. Bill Wehrum has recused himself from participation in this action, so David Harlow is POC. Please forward for immediate review.

Thanks,
Alan

Message

From: Minoli, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C9C0070D651A4625AC20258369F9B050-KMINOLI]
Sent: 9/30/2018 4:41:11 PM
To: Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]
Subject: Fwd: Copy of Letter to Senator Whitehouse

FYI

Kevin S. Minoli
Principal Deputy General Counsel &
Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

Begin forwarded message:

From: "Wehrum, Bill" <Wehrum.Bill@epa.gov>
Date: September 30, 2018 at 10:59:54 AM EDT
To: "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Subject: Re: Copy of Letter to Senator Whitehouse

Kevin - Thanks for this thoughtful and comprehensive note. I have appreciated the chance to work with you over the years. Good luck in your new ventures. I am sure our paths will cross again.

Bill Wehrum
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
(202) 564-7404

On Sep 29, 2018, at 10:57 PM, Minoli, Kevin <Minoli.Kevin@epa.gov> wrote:

Bill- As I prepared to complete my federal service on September 30, 2018, it was important to me that I respond to any outstanding letters addressed to me from Members of Congress. Attached please find a copy of my response to Senator Whitehouse related to two letters from him that address your compliance with the federal ethics rules and the Trump Ethics Pledge. The response notes our engagement with you and your staff throughout your current EPA tenure, the recusal statement you signed on Sept 17, 2018, and your Sept 27, 2018, update to your Certification of Ethics Agreement Compliance. I sent the signed version to OCIR for processing earlier this evening and wanted to provide you a copy before they transmitted it.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

I also wanted to provide you with a copy of an OGE Memo that explains how the Pledge applies to official speeches and presentations at a former employer or client. This memo gives an appointee some additional ability to make such speeches and presentations, but also establishes an absolute prohibition on such speeches or presentations when the event would have a “demonstrable financial effect on the former employer or client.” The memo states that there is a demonstrable financial effect when an “admission fee is charged, the event is a fundraiser, or the event is some kind of business development activity (such as a seminar for current or prospective clients).” Importantly, there is no exception from this prohibition for events where the presentation is open to all interested parties or attended by parties with a variety of viewpoints; rather, the OGE memo states that in order to speak, a waiver from the White House is required.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

It was nice to work with you again after a number of years and I hope you enjoy the rest of your second tour at EPA. My resignation is effective tomorrow (Sept 30th), but the Acting Administrator and Matt will be sharing information on the next DAEO imminently.

Thanks, Kevin

Kevin S. Minoli

Principal Deputy General Counsel
& Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8064

<Whitehouse Wehrum Recusal.Signed.pdf>

<OGE Memo on Pledge and Speeches.DO-09-020.pdf>

Message

From: Minoli, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C9C0070D651A4625AC20258369F9B050-KMINOLI]
Sent: 9/30/2018 3:03:18 AM
To: Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]
Subject: FW: Copy of Letter to Senator Whitehouse
Attachments: Whitehouse Wehrum Recusal.Signed.pdf; OGE Memo on Pledge and Speeches.DO-09-020.pdf

Matt- I wanted you to have this for your awareness.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks, Kevin

Kevin S. Minoli

Principal Deputy General Counsel
 & Designated Agency Ethics Official
 Office of General Counsel
 US Environmental Protection Agency
 Main Office Line: 202-564-8064

From: Minoli, Kevin
Sent: Saturday, September 29, 2018 10:57 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>
Subject: Copy of Letter to Senator Whitehouse

Bill- As I prepared to complete my federal service on September 30, 2018, it was important to me that I respond to any outstanding letters addressed to me from Members of Congress. Attached please find a copy of my response to Senator Whitehouse related to two letters from him that address your compliance with the federal ethics rules and the Trump Ethics Pledge. The response notes our engagement with you and your staff throughout your current EPA tenure, the recusal statement you signed on Sept 17, 2018, and your Sept 27, 2018, update to your Certification of Ethics Agreement Compliance. I sent the signed version to OCIR for processing earlier this evening and wanted to provide you a copy before they transmitted it.

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Thanks, Kevin

Kevin S. Minoli

Principal Deputy General Counsel
& Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8064

Message

From: Minoli, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C9C0070D651A4625AC20258369F9B050-KMINOLI]
Sent: 9/23/2018 4:28:00 PM
To: Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]
Subject: Fwd: Bill Wehrum's visit to Hunton after he was confirmed--violation of federal ethics rules.

Kevin S. Minoli
 Principal Deputy General Counsel &
 Designated Agency Ethics Official
 Office of General Counsel
 US Environmental Protection Agency
 Main Office Line: 202-564-8040

Begin forwarded message:

From: "Konkus, John" <konkus.john@epa.gov>
Date: September 21, 2018 at 1:09:40 PM EDT
To: "Lipton, Eric" <lipton@nytimes.com>
Cc: "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Subject: RE: Bill Wehrum's visit to Hunton after he was confirmed--violation of federal ethics rules.

Eric: If you end up writing, please include this statement from me:

"Since joining the EPA, Mr. Wehrum has understood and abided by ethics rules. He has screened participants in meetings held at EPA and invitations to events external to EPA and will continue to do so. In this case, he spoke to a group that included former clients in the audience and also included many other interested parties which follows ethics rules and the Trump pledge."

Thank you,

John Konkus
 Environmental Protection Agency
 Deputy Associate Administrator for Public Affairs
 Mobile: (202) 365-9250

From: Lipton, Eric [<mailto:lipton@nytimes.com>]
Sent: Friday, September 21, 2018 10:17 AM
To: Konkus, John <konkus.john@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: Re: Bill Wehrum's visit to Hunton after he was confirmed--violation of federal ethics rules.

Thanks John.

If I could get a response by the end of the day, I would appreciate it.

Thank you

Eric

Eric Lipton
The New York Times
Washington Bureau
202.862.0442, office
Personal Phone / Ex. 6 :mobile
lipton@nytimes.com

On Fri, Sep 21, 2018 at 10:11 AM Konkus, John <konkus.john@epa.gov> wrote:

Eric: We will work on these. What's your deadline, expectations for response?

Thanks,

John

From: Lipton, Eric [mailto:lipton@nytimes.com]
Sent: Friday, September 21, 2018 9:50 AM
To: Konkus, John <konkus.john@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: Bill Wehrum's visit to Hunton after he was confirmed--violation of federal ethics rules.

Hello John

Information provided to me leads me to believe that Bill Wehrum violated federal ethics rules when he visited Hunton & Williams in December 2017.

The violation seems quite clear, based on the attached OGE guidance memo.

It says that

An employee is prohibited from giving an official speech to an organization whose interests are imputed to the employee under section 208, if the speech would have a direct and predictable effect on the organization's financial interest. In OGE's experience, usually the sponsor of an event will have a

financial interest in an official speech only if an admission fee is charged, the event is a fundraiser, or the event is some kind of business development activity (such as a seminar for current or prospective clients).

Thus, if the former employer or client charges an admission fee or organizes the event for the purpose of fundraising or business development, **the appointee will be barred from giving an official speech**, absent a waiver under section 3 of the Executive Order. Even where Pledge paragraph 2 is inapplicable, ethics officials are reminded to analyze any official speaking engagements under 18 U.S.C. § 208 and 5 C.F.R. §2635.502, as discussed above.

1) Can you address please if Mr. Wehrum has been notified that he violated ethics rules by giving these remarks.

2) Can you tell me what steps the EPA has taken to prevent Mr. Wehrum from violating ethics rules again.

3) Has any kind of a letter been sent to Mr. Wehrum discussing this matter by EPA's DAEO? If not, why not. And if it has, can I have a copy of the letter please.

Thank you in advance for your help

ERIC

Eric Lipton

The New York Times

Washington Bureau

202 862 0448 office

Personal Phone / Ex. 6 mobile

lipton@nytimes.com

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 9/17/2018 7:16:30 PM
To: Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]
Subject: Recusal Letter

Matt – I have not received a draft. Is there someone I should contact?

Bill Wehrum
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
(202) 564-7404

Message

From: Leopold, Matt (OGC) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4E5CDF09A3924DADA6D322C6794CC4FA-LEOPOLD, MA]
Sent: 9/17/2018 8:46:54 PM
To: Bill Wehrum (Wehrum.Bill@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: FW: Bill Wehrum's Recusal Statement
Attachments: Wehrum recusal revised 9_17_18.docx

Bill, this version is ready for signature.

From: Griffo, Shannon
Sent: Monday, September 17, 2018 12:14 PM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Bill Wehrum's Recusal Statement

Matt,

Per Justina's discussion with Elise earlier today, attached is the recusal statement for Bill Wehrum's signature.

Deliberative Process / Ex. 5

Please let us know if you need anything else.

Thanks,
Shannon

Shannon Griffo
Ethics Attorney
Office of General Counsel, Ethics
U.S. Environmental Protection Agency
(202) 564-7061
Griffo.Shannon@epa.gov

Message

From: Leopold, Matt (OGC) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4E5CDF09A3924DADA6D322C6794CC4FA-LEOPOLD, MA]
Sent: 9/17/2018 7:39:28 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: Fwd: Bill Wehrum's Recusal Statement
Attachments: Wehrum recusal revised 9_17_18.docx; ATT00001.htm

Sent from my iPhone

Begin forwarded message:

From: "Griffo, Shannon" <Griffo.Shannon@epa.gov>
Date: September 17, 2018 at 12:13:51 PM EDT
To: "Leopold, Matt (OGC)" <Leopold.Matt@epa.gov>
Cc: "Minoli, Kevin" <Minoli.Kevin@epa.gov>, "Packard, Elise" <Packard.Elise@epa.gov>, "Fugh, Justina" <Fugh.Justina@epa.gov>
Subject: Bill Wehrum's Recusal Statement

Matt,

Per Justina's discussion with Elise earlier today, attached is the recusal statement for Bill Wehrum's signature.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Please let us know if you need anything else.

Thanks,
Shannon

Shannon Griffo
Ethics Attorney
Office of General Counsel, Ethics
U.S. Environmental Protection Agency
(202) 564-7061
Griffo.Shannon@epa.gov

Message

From: Brazauskas, Joseph [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BABF7B77AEEC4FFEAAD446BB35E05B24-BRAZAUSKAS,]
Sent: 10/1/2018 4:06:21 PM
To: Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]
Subject: FW: Response to April 25 and September 4 Letters
Attachments: Wehrum signed recusal 9_17_18.pdf; Wehrum signed EA compliance 9_27_18.pdf; Whitehouse Wehrum Recusal.Signed.pdf

FYI... will plan to speak with you about this at 2:30.

Joseph A. Brazauskas

Associate Deputy General Counsel
 U.S. Environmental Protection Agency
 (202) 564-5189

From: Knapp, Kristien
Sent: Monday, October 1, 2018 11:39 AM
To: Brazauskas, Joseph <brazauskas.joseph@epa.gov>
Subject: FW: Response to April 25 and September 4 Letters

Joe – For you awareness, Kevin Minoli signed this response on Saturday, and I just delivered to Senator Whitehouse and EPW staff.

From: Knapp, Kristien
Sent: Monday, October 1, 2018 11:36 AM
To: Gaeta, Joe (Whitehouse) <Joe_Gaeta@whitehouse.senate.gov>; Dudis, Dan (Whitehouse) <Dan_Dudis@whitehouse.senate.gov>
Cc: Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>; Choksi, Rachit (EPW) <Rachit_Choksi@epw.senate.gov>; Horner, Elizabeth (EPW) <Elizabeth_Horner@epw.senate.gov>; Leggett, Matt (EPW) <Matt_Leggett@epw.senate.gov>; Memmott, Justin (EPW) <Justin_Memmott@epw.senate.gov>; Donaldson, Teri (EPW) <Teri_Donaldson@epw.senate.gov>; Palich, Christian <palich.christian@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Aarons, Kyle <Aarons.Kyle@epa.gov>
Subject: Response to April 25 and September 4 Letters

Hi Joe and Dan –

Attached please find EPA's response to Senator Whitehouse's April 25, 2018 and September 4, 2018 letters on William Wehrum's recusal.

Thanks,
 Kristien

Kristien Knapp
 Legislative and Oversight Counsel
 Office of Congressional Affairs
 U.S. Environmental Protection Agency
 (202) 564-3277

Message

From: Agarwal, Ilena [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=da61841dc43f4a9f8bfd3223ad9c230d-Agarwal, II]
Sent: 9/20/2018 7:32:46 PM
To: AO OPA OMR CLIPS [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=427e98d7c5d74c5fb1d469a061371223-AO OPA OMR]
Subject: News Compilation 9/20

News Compilation 9/20

Air:

Bloomberg Environment: Ethics Rules Can't Corral EPA Air Chief from Advancing Policies

Emissions:

The Morning Sun: EPA gives update on Velsicol plant cleanup in St. Louis

Chemical Watch: US EPA meets resistance on TSCA Snurs proposal

The Hill: EPA to abandon restrictions against chemical linked to climate change

EPA may release new data on small refinery biofuel waivers: sources

E&E News: EPA proposal limits Obama rule on heat-trapping HFCs

Bloomberg Environment: Ethics Rules Can't Corral EPA Air Chief from Advancing Policies

<https://www.bna.com/ethics-rules-cant-n73014482677/>

By Abby Smith and Amena H. Saiyid

EPA air chief Bill Wehrum's agenda looks similar to that of the energy industry he previously represented, but that doesn't necessarily cross the boundaries of his recent ethics pledge.

Standard ethics rules—including commitments put in place by President Donald Trump last year—are generally too narrow to prevent Wehrum from working on issues on which he had previously fought the Environmental Protection Agency in court, ethics specialists said. And Wehrum's critics don't have much room to challenge his actions because ethics rules ultimately rely largely on administrations policing themselves.

The result is that Wehrum—who worked for a decade as an attorney for Hunton & Williams LLP, now Hunton Andrews Kurth LLP—has relatively free rein to undo or rewrite the Obama-era regulations he previously fought without violating ethics rules.

"These rules have a lot of room for political appointees to pursue policies that benefit their former clients," Justin Pidot, a professor with University of Denver's Sturm College of Law who previously worked as deputy solicitor for land resources with the Interior Department during the Obama administration, said.

Wehrum, in a recusal statement signed Sept. 17, pledged to limit his interactions with more than three dozen former clients. The list includes close to a dozen major industry trade groups such as the American Petroleum Institute and the Utility Air Regulatory Group as well as companies in nearly every sector that has business before the EPA's air office.

But Wehrum can steer clear of violating his ethics requirements so long as he meets with former clients in a group setting and avoids involvement in specific proceedings with those companies.

Wehrum has said he is taking all necessary precautions.

"I am scrupulously complying with my ethical obligations," he told the New York Times last month.

General Policymaking

Wehrum initially declined to sign a recusal letter, citing uncertainty about what the ethics rules prohibited. But he ultimately agreed to sign a statement following pressure from Sen. Sheldon Whitehouse (D-R.I.).

"This is a document the Senate and the public were entitled to receive months ago," Sen. Tom Carper (D-Del.), chair of the Senate Environment and Public Works Committee, told Bloomberg Environment in an email. "Signing a recusal statement ensures that an individual picked to serve the American people cannot work to advance the interests of his or her former industry clients, so this should be an automatic and a no-brainer for any regulator who values credibility."

The Sept. 17 letter noted Wehrum can't meet with former clients—which include Chevron Corp., Duke Energy Corp., ExxonMobil Corp., General Electric Company, Kinder Morgan Inc., and Koch Industries Inc.—unless five or more parties are present. Wehrum also recused himself from a number of lawsuits dealing with EPA regulations.

But the statement, which tracks with typical ethics language, doesn't prohibit him from working on general EPA policymaking, such as the agency's methane limits on oil and gas drilling, ozone standards, and mercury and air toxics standards, Richard Alonso, a former EPA air enforcement official during the Bush administration who now works for Sidley Austin LLP in Washington D.C., told Bloomberg Environment.

The ethics standards aim to prevent someone from switching sides in a lawsuit or enforcement proceeding, Kathleen Clark, a law professor at Washington University in St. Louis who studies legal and government ethics, told Bloomberg Environment.

“What they don’t address is whether it’s appropriate to put in charge of an agency someone whose career has been defined by fighting the agency,” Clark said of the standards.

Old-Fashioned Rules

The resulting problem is twofold, EPA’s critics said. The typical ethics rules can’t cover the scope of Wehrum’s potential conflicts. At the same time, the Trump administration—and the EPA in particular—has pushed the boundaries of hiring former industry attorneys and lobbyists.

“That kind of language is old-fashioned and too narrow. It’s not sized to fit what a regulatory agency like EPA does,” Eric Schaeffer, executive director of the Environmental Integrity Project and a former EPA civil enforcement official, said of Wehrum’s recusal statement.

“Whether or not the actions trip over the letter of the law, they clearly benefit all those interests,” Schaeffer told Bloomberg Environment.

For example, Schaeffer said, Wehrum represented industry clients that criticized the EPA’s “once in, always in” policy that required facilities to continue to control toxic air pollutants even if their emissions drop below the threshold for regulation.

Shortly after joining the agency last year, Wehrum reversed that policy.

Lawyers vs. Lobbyists

The primary remedy for ethics breaches is for agencies to police themselves and for ethics officials to step in, Austin Evers, executive director of the watchdog group American Oversight, told Bloomberg Environment.

Evers also noted the difference between the restrictions on lobbyists and attorneys.

Under Trump’s ethics executive order, lobbyists are prevented from working on specific issues they lobbied on in the past two years. For example, EPA acting Administrator Andrew Wheeler, a former lobbyist for Faegre Baker Daniels, has to sit out discussions on the Trump administration’s coal and nuclear bailout plans and EnergyStar, according to his May 24 recusal letter.

Wehrum, though, isn’t restricted from working on specific issues he litigated.

He is able to “drive through this loophole,” Evers said, adding that he sees Wheeler and Wehrum’s roles as a distinction without a difference. Wehrum “has been lobbying the agency through the courts at an unbelievable clip,” he said.

The Morning Sun: EPA gives update on Velsicol plant cleanup in St. Louis

https://www.themorningsun.com/news/local/epa-gives-update-on-velsciol-plant-cleanup-in-st-louis/article_1f527cee-bc54-11e8-b3d4-c37a82b56e45.html

By Sean Bradley sbradley

More than 50,000 pounds of contaminants have been recovered in the contaminated, 1-acre area being cleaned up at the former Velsicol Chemical plant in St. Louis.

The treatment system is scheduled to run at least until Oct. 18, as reported by Diane Russell, Community Involvement Coordinator with the U.S. Environmental Protection Agency, on Wednesday.

"Prior to that date, EPA and (Michigan Department of Environmental Quality) will evaluate the contamination amounts recovered and determine if it is appropriate to shut down the thermal treatment system. Before initiating the shutdown, EPA and MDEQ will do soil sampling in the heated area," Russell said.

Thermal treatment vendor TerraTherm continues to add citric acid and peracetic acid into the water treatment system to reduce biological growth and prevent the formation of calcium carbonate, she said. The formation of calcium carbonate was producing a white discharge. The peracetic acid has also reduced the biological odor from the discharge.

The estimated amount of electricity usage has exceeded the EPA's initial estimate of 7 million kilowatt hours of electricity, instead using approximately 8 million kilowatt hours with at least five weeks of heating remaining.

Bids are being evaluated for the in-place heating of the second, 3-acre area on the former Velsicol chemical plant site in St. Louis.

Installation of the heating units could begin this fall and heating of the area could begin next spring or summer, according to Russell.

The EPA and DEQ have signed a State Superfund Contract that commits the DEQ to pay 10 percent of the in-situ thermal treatment of the second area. The contract is required before any work can begin.

Work is being finished on a design for the required preparation for the in-place thermal treatment. Treatment will likely not take place until 2021 since not enough electricity can be provided at the same time as the second area and burn pit treatments.

In addition, the EPA is moving forward on the design for the hookup to municipal water for 11 homes near the burn pit. Access agreements are being received by the EPA from some of the homeowners agreeing to be provided municipal water provided by St. Louis.

Chemical Watch: US EPA meets resistance on TSCA Snurs proposal

<https://chemicalwatch.com/70436/us-epa-meets-resistance-on-tsca-snurs-proposal>

By Kelly Franklin

Nearly a dozen industry groups, businesses and NGOs have submitted adverse comments to the US EPA's proposal to issue a batch of 145 TSCA significant new use rules (Snurs).

Issued in August through both a direct final rule and a proposed rule, the Snurs address a variety of new substances that were approved for introduction into commerce with some restrictions. The new rules aim to extend the same requirements outlined in those substances' consent orders – which are only binding to the original pre-manufacture notice (PMN) submitters – to others who may use the chemicals in the future.

But while issuing these '5(e)-Snurs' has been standard practice even prior to TSCA's amendment in 2016, a variety of groups are taking issue with the EPA's approach.

Process concerns

Many of the comments focus on issues specific to certain Snurs, such as concerns that the requirements they contain do not accurately mirror the consent order on which they are based.

But commenters also questioned the EPA's overall approach of proposing a direct final rule in conjunction with a proposed rule, because this effectively cuts short the time for companies to compose substantive comments (see box).

Chemical manufacturer BASF said affected parties "should only be required to notify EPA of their intent to file one or more adverse comments on a specific Snur/use combination, not provide comprehensive, detailed comments" following publication of the direct final rule.

The "EPA appears to be trying to compensate for internal delays in issuing these Snurs by proceeding with two significant new use rulemakings that effectively reduce the public comment period by 30 days," BASF wrote. But this "makes it more likely that potential submitters of adverse comments will fail to submit all of [these]".

The American Chemistry Council, electronics company Panasonic, and the law firm Bergeson & Campbell were among groups also to criticise the approach or request more time to respond to the proposed rule.

'Potentially useful information'

The NGO Environmental Defense Fund also filed lengthy comments in opposition to all 145 Snurs.

Chief among its concerns is that the Snurs do not include "recommended testing", as has traditionally been the case; instead testing requirements are outlined under a "potentially useful information" heading.

EDF calls this "a significant departure from past policy and practice".

The group also questioned whether the EPA is hinting at the implementation of a new policy, along the lines of one called for under section 26 of the reformed law, that lays out how and when exposure level of a substance would factor into the decision to require testing.

Richard Denison, lead senior scientist at the EDF, told Chemical Watch that the latest Snurs "allude to the possibility that exposure would be a factor, but have not indicated in any way, shape or form how and when the exposure consideration would be factored in".

Therefore, he said, the EPA might be implementing an approach to testing "piecemail, in the context of an individual Snun [significant new use notice] review, behind closed doors, where the only parties to the discussion are EPA and the company".

The ability of the public to know what policy is being evoked and how it's being applied is all up for grabs as the EPA has not articulated a policy, he added.

The agency is likely to recognise the bulk of these comments as significant, which will result in its pulling the direct final rule and addressing the substances through the proposed rulemaking. It remains unclear if the agency will offer additional time for submission of comments in view of the concerns raised.

Subsequent to this batch of 145 Snurs, the agency issued several others: 28 on 17 September, 29 on 27 August and 27 others on 17 August. Because the agency also proposed these through the two simultaneous rulemakings approach, and with similar language on testing, it is plausible that similar adverse comments might follow.

The Hill: EPA to abandon restrictions against chemical linked to climate change

<https://thehill.com/policy/energy-environment/407614-epa-to-abandon-restrictions-against-climate-change-linked-chemical>

BY MIRANDA GREEN - 09/20/18 12:38 PM EDT

The Trump administration is planning to do away with an Obama-era regulation that restricted a known greenhouse gas from being used as a refrigerant in household appliances.

The Environmental Protection Agency (EPA) late Wednesday announced it's proposing a rule to rescind a 2016 regulation that would have phased out the use of hydrofluorocarbons (HFCs) in appliances. The chemical, known greenhouse gas, is frequently used as a refrigerant substitute in air conditioners and refrigerators.

EPA said the new rule is based off the agency's own determination that the previous rule "exceeded its statutory authority" by extending a refrigerant management requirement meant for ozone depleting substitutes, to the gas which in itself does not contribute to ozone depletion.

The agency added that the new rule does not affect current requirements for other ozone-depleting refrigerants.

Taken to task over the legality of the Obama regulation by two refrigerant manufacturing companies, the Trump Administration defended the rule but lost in an Appeals for the District of Columbia Circuit Court last August.

Environmental groups among other organizations appealed the verdict to the Supreme Court but the Trump administration this August announced the appeal was unnecessary as it planned to change the regulation, and asked the court to not take up the case.

Sensing a legal challenge may hinder EPA's implementation of the 2016 rule, a bipartisan group of senators introduced a bill in February that would give the agency the authority to regulate the greenhouse causing chemical due to its air pollution, not relying on a connection to ozone depletion.

At the time Sen. Tom Carper (D-Del.) said the bill, called the American Innovation and Manufacturing Act, "continues support for American development and manufacturing of next-generation HFC-alternatives, while also protecting our environment and helping the U.S. meet its obligations under the amended Montreal Protocol — a true win-win."

Carper on Thursday decried EPA's decision to abandon the regulation altogether.

"I believe the federal government has a moral responsibility, not only to help our communities be better prepared for climate-fueled events, but to also address the root causes of these events. Unfortunately, this action is yet another reminder the Trump Administration isn't willing to take even the smallest step to address climate change or protect Americans from the threats of extreme weather," he said in a statement.

He said he was still hopeful that the bill he introduced with Sen. John Kennedy (R-La.) would pass.

EPA may release new data on small refinery biofuel waivers: sources

<https://www.businessinsider.com/r-epa-may-release-new-data-on-small-refinery-biofuel-waivers-sources-2018-9?r=UK&IR=T>

NEW YORK (Reuters) - The U.S. Environmental Protection Agency (EPA) may release new data on Thursday related to its program to exempt small refineries from annual biofuels blending requirements, according to four sources familiar with the plans.

EPA Acting Administrator Andrew Wheeler had been under pressure from biofuels trade groups and lawmakers for increased transparency into the waiver program, which the agency has recently expanded to help the oil industry, according to the sources. The biofuels industry worries the waiver program is undermining demand for corn-based ethanol, and is being mismanaged by the Trump administration's EPA.

The agency did not respond immediately to a request for comment.

The U.S. Renewable Fuel Standard (RFS) requires refiners to blend increasing amounts of biofuels like corn-based ethanol into the nation's fuel supply each year, or purchase blending credits from those that do. The policy has helped farmers by creating a 15 billion-gallon market for ethanol, but has rankled some refining companies that say it costs them a fortune.

Small refineries can apply for and receive waivers for their requirements if they demonstrate that complying would cause them financial hardship. The EPA has not previously divulged information on who applies for or receives the waivers, arguing the information is business sensitive.

Under former EPA Administrator Scott Pruitt, the number of waivers granted soared, however, angering biofuels groups who said it undermined demand for ethanol, and prompting calls from biofuels supporters including Republican Senator Chuck Grassley from Iowa that the agency release more detail on the waivers.

(Reporting by Chris Prentice and Jarrett Renshaw in New York and Michael Hirtzer in Chicago; Editing by Susan Thomas)

E&E News: EPA proposal limits Obama rule on heat-trapping HFCs
<https://www.eenews.net/greenwire/stories/1060099143/search?keyword=epa>
Maxine Joselow, E&E News reporter Published: Thursday, September 20, 2018

EPA rolled out a proposal yesterday for shrinking an Obama-era rule aimed at preventing leaks of potent heat-trapping coolants.

At issue is the November 2016 regulation requiring industry to curb leaks of hydrofluorocarbons and other ozone-depleting compounds in air conditioning and refrigeration appliances.

While short-lived in the atmosphere, HFCs are thousands of times more potent as greenhouse gases than carbon dioxide. The Obama administration made phasing out HFCs a key part of its climate agenda, while the Trump administration has backtracked (Climatewire, Sept. 17).

EPA said its proposed amendments to the HFC rule would generate \$39 million in cost savings.

The agency also tacitly acknowledged that the proposal would result in at least 3 million metric tons of additional greenhouse gas emissions a year.

That's equivalent to putting 642,400 additional motor vehicles on the road for a year, according to the agency's own emissions calculator.

Environmentalists were quick to blast the proposal, saying it inflated the projected cost savings and was legally vulnerable.

"They say it's going to save companies \$39 million a year in leak prevention expenditures," said David Doniger, senior strategic director of the Climate and Clean Energy Program at the Natural Resources Defense Council. "But because they're not preventing leaks, they're going to have to buy \$15 million more of refrigerant to make up what they leak. So the net savings is really \$24 million."

He added, "It's another act of climate vandalism. Now they claim that this is being driven by a legal interpretation. But I think their legal interpretation is wrong. So we are going to file comments opposing this. And I think a good portion of the industry will."

Indeed, most of the domestic air conditioning industry supports phasing out the use of HFCs.

Two industry groups have challenged the Obama-era rule.

The National Environmental Development Association's Clean Air Project and the Air Permitting Forum filed a challenge to the regulation in the U.S. Court of Appeals for the District of Columbia Circuit a few days before President Trump's inauguration.

The Air Permitting Forum, an industry group represented by law firm Hunton & Williams LLP, also filed a petition for administrative review at EPA (Greenwire, May 18, 2017).

EPA will take comments on the proposal for 45 days after its publication in the Federal Register and will hold a public hearing in Washington, D.C.

EPA spokeswoman Molly Block provided E&E News with a link to the proposal but didn't respond to a follow-up request for comment.

Message

From: Leopold, Matt (OGC) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4E5CDF09A3924DADA6D322C6794CC4FA-LEOPOLD, MA]
Sent: 9/17/2018 9:21:35 PM
To: Palich, Christian [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=330ad62e158d43af93fcbbece930d21a-Palich, Chr]; Lyons, Troy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=15e4881c95044ab49c6c35a0f5eef67e-Lyons, Troy]; Jackson, Ryan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38bc8e18791a47d88a279db2fec8bd60-Jackson, Ry]
Subject: FW: wehrum recusal
Attachments: image2018-09-17-143140.pdf

From: DC-WJCN-4020-M@epa.gov [mailto:DC-WJCN-4020-M@epa.gov]
Sent: Monday, September 17, 2018 2:32 PM
To: Leopold.Matt@epamail.epa.gov; Mills, Derek <Mills.Derek@epa.gov>; Monson, Mahri <Monson.Mahri@epa.gov>; Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Subject: wehrum recusal

Appointment

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 1/30/2018 4:26:23 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]; Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
Subject: Canceled: Ethics Follow Up Discussion
Location: 5400

Start: 2/6/2018 6:00:00 PM
End: 2/6/2018 6:30:00 PM
Show Time As: Free

Importance: High

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 9/10/2018 4:26:48 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
CC: Isabel DeLuca [DeLuca.Isabel@epa.gov]
Subject: Request for Bill Wehrum to speak at the Fall 2018 meeting of ACCCI'S MESH Committee
Attachments: Event Form OAR AA-ACCCI.DOCX; Fall 2018 MESH Agenda - Draft.doc

Justina and Shannon,

Bill has been asked to speak at the American Coke and Coal Chemicals Institute (ACCCI) Fall meeting. (More background in the attached). Below you'll see the list of companies likely to participate. ACCCI is not a former client of Bill's, and none of the companies below are former clients either. Though worth noting that DTE was – maybe still is – a client of Hunton (Bill's former law firm).

We're thinking this is a speech Bill can accept, but want to confirm with you. Call or email if you have questions or need additional info/background.

Thanks
 Josh
 564 2095

From: David Ailor [mailto:dailor@accci.org]
Sent: Friday, September 07, 2018 3:24 PM
To: DeLuca, Isabel <DeLuca.Isabel@epa.gov>
Subject: RE: REQUEST FOR YOU TO SPEAK ON THE MORNING OF THURSDAY, OCTOBER 11 AT THE FALL 2018 MEETING OF ACCCI'S MESH COMMITTEE

The companies I know to be attending/participating as of now are:

- ABC Coke
- AK Steel
- DTE-EES
- ERP Compliant Coke
- USS
- Coopers Creek Chemical Corp.
- Koppers
- Lone Star Specialties

Also, Is 900 am to 1000 am (as opposed to 915 am to 1015 am) a possibility? No worries if it's not. DCA

David C. Ailor, P.E.
 President
 American Coke and Coal Chemicals Institute

25 Massachusetts Avenue, N.W.
Suite 800
Washington, D.C. 20001
Phone: 703-795-3541
eFax.: 866-422-7794
dailor@accci.org
www.accci.org

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 9/26/2018 7:05:07 PM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
CC: Isabel DeLuca [DeLuca.Isabel@epa.gov]
Subject: Ethics check: Crowell Moring invite for Bill Wehrum
Attachments: CM Association Contacts.pdf; Event Form OAR AA.DOCX

Justina and Shannon,

Byron Brown at Crowell Moring is pulling together an event in October (2nd attachment) and he's asking for Bill to participate on a panel (other panelists are TBD). If you look at the list of invited trade associations (1st attachment), you'll see it includes former clients of Bill's (AFPM, AF&PA, API to name three) but also about 100 others who weren't clients. Deliberative Process / Ex. 5 but wanted to see if you had any questions/concerns.

Thanks for taking a look.

Josh

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 3/28/2018 9:00:27 AM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
BCC: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
Subject: Recusal Deliberative Process / Ex. 5 update
Attachments: Bill Wehrum recusal 3_27_18.docx; ATT00001.htm

Bill,

Attached is the latest draft of your recusal.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 3/28/2018 8:57:56 AM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
Subject: Recusal [Deliberative Process / Ex. 5] update
Attachments: Bill Wehrum recusal 3_27_18.docx; ATT00001.htm

Bill,

Attached is the latest draft of your recusal...

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Appointment

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 1/30/2018 4:26:23 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: Accepted: Ethics Follow Up Discussion
Location: 5400

Start: 2/2/2018 9:30:00 PM
End: 2/2/2018 10:00:00 PM

Recurrence: (none)

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 12/6/2017 7:16:51 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
CC: Mandy Gunasekara (Gunasekara.Mandy@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beaddda2affa44-Harlow, Dav]
Subject: FW: Release of Bill Wehrum's ethics pledge
Attachments: signed ethics pledges 12_6_17.pdf

Bill,

I likely won't see you in the next 1-2 hours, which is roughly when OCIR is going to release your ethics pledge – along w/ a group of others (see attached) - to House Energy and Commerce in response to a request from the committee. Not sure there's much we can do given the late notice. Wanted you to be aware.

Josh

From: Aarons, Kyle
Sent: Wednesday, December 06, 2017 1:32 PM
To: Lubetsky, Jonathan <Lubetsky.Jonathan@epa.gov>
Cc: Knapp, Kristien <Knapp.Kristien@epa.gov>; Yaeger, Ryan <Yaeger.Ryan@epa.gov>
Subject: Release of Bill Wehrum's ethics pledge

Hi Jonathan – In response to an oversight request from House Energy & Commerce, we are going to release Bill's signed ethics pledge today. Senate EPW has asked us to keep them updated on ethics releases, so we will send to them as well.

Please let me know if OAR has any concerns.

Thanks,
 Kyle

Kyle Aarons
 Congressional Affairs
 U.S. Environmental Protection Agency
 202-564-7351

Appointment

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 12/13/2017 2:04:38 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]

Subject: Accepted: Follow Up with OGC/Ethics
Location: 5400

Start: 12/19/2017 2:30:00 PM
End: 12/19/2017 3:00:00 PM

Recurrence: (none)

Message

From: Lubetsky, Jonathan [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E125D09A658E48119789CCA5712B4A5-JLUBETSK]
Sent: 7/25/2018 8:02:56 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
Subject: FW: Carper -- Enforcement and NSR response
Attachments: Carper Enforcement 12-21-17.pdf; OGC Ethics Signed Letter.pdf; image2018-07-24-124129.pdf

See note below from Kristien. It sounds like Justina will talk to Bill directly about this, but we need to run this by Bill and at least David.

From: Knapp, Kristien
Sent: Wednesday, July 25, 2018 10:10 AM
To: Lubetsky, Jonathan <Lubetsky.Jonathan@epa.gov>
Cc: Aarons, Kyle <Aarons.Kyle@epa.gov>
Subject: Carper -- Enforcement and NSR response

Hi Jonathan –

We have the attached responses from Susan Bodine and Kevin Minoli ready for delivery in response to Senator Carper's oversight request on enforcement and NSR, but we want to check with OAR before we send it. Can you check if Bill Wehrum is OK with this response being sent, potentially this week? We're still working with OGC/ethics on the Whitehouse request regarding his recusal and understand Justina will be reaching out to Bill directly to talk through that one.

Thanks,
Kristien

Kristien Knapp
Legislative and Oversight Counsel
Office of Congressional Affairs
U.S. Environmental Protection Agency
(202) 564-3277

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 8/21/2018 6:32:16 PM
To: Hengst, Benjamin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c414e2bf04a246bb987d88498eefff06-Hengst, Benjamin]; Charmley, William [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fb1828fb00af42ffb68b9e0a71626d95-Charmley, William]
CC: Rakosnik, Delaney [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=274573739a9f446883072599086ededd-Rakosnik, D]
Subject: Follow up re: TTMA
Attachments: FW: Request for Meeting on Behalf of Truck Trailer Mfrs Ass'n

Bill/Ben,

Confirming that we heard from TTMA regarding a meeting (see attached). I also understand that **Deliberative Process / Ex. 5** David Harlow and Bill discovered that b/c of a court case consolidation Hunton is now one of the firms included...which means Bill/David can't take the meeting. Our plan is to respond to the attached and let them know Mandy/Clint are available for the meeting. But wanted to run that by you to make sure that all sounds ok to you.

Also – just a heads up we also heard from the Truck and Engine Manufacturers Association who want to come in to talk to Bill about HD NOx. We'll be scheduling that one soon and will include OTAQ.

From: Lewis, Josh
Sent: Thursday, August 09, 2018 9:48 AM
To: Hengst, Benjamin <Hengst.Benjamin@epa.gov>; Charmley, William <charmley.william@epa.gov>
Cc: Rakosnik, Delaney <rakosnik.delaney@epa.gov>
Subject: RE: Remind me who we should provide as a name to external stakeholders for scheduling a meeting with AA Wehrum

That's right, Delaney is the contact. Cc'ing her here so she knows it'll be coming.

From: Hengst, Benjamin
Sent: Wednesday, August 08, 2018 2:09 PM
To: Charmley, William <charmley.william@epa.gov>
Cc: Lewis, Josh <Lewis.Josh@epa.gov>
Subject: Re: Remind me who we should provide as a name to external stakeholders for scheduling a meeting with AA Wehrum

I think the name should be Delaney Rakosnik, who now handles Bill W's calendar. Ben

On Aug 8, 2018, at 12:54 PM, Charmley, William <charmley.william@epa.gov> wrote:

Dear Ben and Josh –

As a follow-up to **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

I think

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Thanks

Bill

Message

From: Rakosnik, Delaney [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=274573739a9f446883072599086ededd-Rakosnik, D]
Sent: 8/14/2018 8:37:25 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]
Subject: FW: Request for Meeting on Behalf of Truck Trailer Mfrs Ass'n

Meeting request for next roundtable.

From: Martel, Jonathan S. [mailto:Jonathan.Martel@arnoldporter.com]
Sent: Tuesday, August 14, 2018 4:10 PM
To: Jonathan.Morrison@dot.gov; Rakosnik, Delaney <rakosnik.delaney@epa.gov>
Cc: Rodman, Sonja <Rodman.Sonja@epa.gov>; sue.chen@usdoj.gov; Theodore, Elisabeth <Elisabeth.Theodore@arnoldporter.com>; Fayne, Zachary <Zachary.Fayne@arnoldporter.com>
Subject: Request for Meeting on Behalf of Truck Trailer Mfrs Ass'n

Dear Delaney and Jonathan –

I am writing on behalf of the Truck Trailer Manufacturers Association (TTMA), to request a meeting with Bill Wehrum (EPA) and yourself, Jonathan Morrison (NHTSA) to discuss the status of EPA's and NHTSA's reconsideration of EPA's and NHTSA's October 2016 joint "Phase 2" rule imposing greenhouse gas emissions and fuel economy standards directly on manufacturers of heavy-duty truck trailers.

The EPA standards were scheduled to apply beginning January 1, 2018, but on October 27, 2017, the D.C. Circuit granted TTMA's motion for a stay and ordered EPA to submit status reports every 90 days. The NHTSA standards do not take effect until 2021, so TTMA has not sought a stay of those regulations. On August 17, 2017, EPA and NHTSA both agreed to reconsider the trailer provisions of the EPA and NHTSA regulations.

We understand from Sue Chen at the Department of Justice that Mr. Wehrum and yourself (Mr. Morrison) are amenable to meeting with TTMA representatives to consider our views regarding the merit of proceeding expeditiously to reconsider the trailer provisions.

We would be pleased to meet with you together or separately. We are available for such a meeting on September 5, September 14, or after September 14, as may suit your schedules. We will follow up regarding scheduling however you wish. Thank you very much.

Sincerely,

Jonathan

Jonathan S. Martel
 Partner

Arnold & Porter

601 Massachusetts Ave., NW | Washington | DC 20001-3743
 T: +1 202.942.5470 | M: +1 Personal Phone / Ex. 6 | F: +1 202.942.5999
jonathan.martel@arnoldporter.com | www.arnoldporter.com

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For more information about Arnold & Porter, click here:

<http://www.arnoldporter.com>

Message

From: Minoli.Kevin@epa.gov [Minoli.Kevin@epa.gov]
Sent: 8/16/2018 5:24:16 AM
To: Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
Subject: Re: update on the Bill Wehrum part of my day

Thanks.

Deliberative Process / Ex. 5

We can talk more tomorrow. Thanks!

Kevin S. Minoli
Principal Deputy General Counsel &
Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Aug 15, 2018, at 9:45 PM, Fugh, Justina <Fugh.Justina@epa.gov> wrote:

Kevin,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

<Wehrum recusal revised 7_30_18.docx>

Message

From: Minoli.Kevin@epa.gov [Minoli.Kevin@epa.gov]
Sent: 9/30/2018 4:41:10 PM
To: Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]
Subject: Fwd: Copy of Letter to Senator Whitehouse

FYI

Kevin S. Minoli
Principal Deputy General Counsel &
Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

Begin forwarded message:

From: "Wehrum, Bill" <Wehrum.Bill@epa.gov>
Date: September 30, 2018 at 10:59:54 AM EDT
To: "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Subject: **Re: Copy of Letter to Senator Whitehouse**

Kevin - Thanks for this thoughtful and comprehensive note. I have appreciated the chance to work with you over the years. Good luck in your new ventures. I am sure our paths will cross again.

Bill Wehrum
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
(202) 564-7404

On Sep 29, 2018, at 10:57 PM, Minoli, Kevin <Minoli.Kevin@epa.gov> wrote:

Bill- As I prepared to complete my federal service on September 30, 2018, it was important to me that I respond to any outstanding letters addressed to me from Members of Congress. Attached please find a copy of my response to Senator Whitehouse related to two letters from him that address your compliance with the federal ethics rules and the Trump Ethics Pledge. The response notes our engagement with you and your staff throughout your current EPA tenure, the recusal statement you signed on Sept 17, 2018, and your Sept 27, 2018, update to your Certification of Ethics Agreement Compliance. I sent the signed version to OCIR for processing earlier this evening and wanted to provide you a copy before they transmitted it.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

I also wanted to provide you with a copy of an OGE Memo that explains how the Pledge applies to official speeches and presentations at a former employer or client. This memo gives an appointee some additional ability to make such speeches and presentations, but also establishes an absolute prohibition on such speeches or presentations when the event would have a “demonstrable financial effect on the former employer or client.” The memo states that there is a demonstrable financial effect when an “admission fee is charged, the event is a fundraiser, or the event is some kind of business development activity (such as a seminar for current or prospective clients).” Importantly, there is no exception from this prohibition for events where the presentation is open to all interested parties or attended by parties with a variety of viewpoints; rather, the OGE memo states that in order to speak, a waiver from the White House is required.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

It was nice to work with you again after a number of years and I hope you enjoy the rest of your second tour at EPA. My resignation is effective tomorrow (Sept 30th), but the Acting Administrator and Matt will be sharing information on the next DAEO imminently.

Thanks, Kevin

Kevin S. Minoli

Principal Deputy General Counsel
& Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8064

<Whitehouse Wehrum Recusal.Signed.pdf>

<OGE Memo on Pledge and Speeches.DO-09-020.pdf>

Appointment

From: Veney, Carla [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C354B58BF2B1464D8AFAC7BBD2A7A88C-CVENEY]
Sent: 11/14/2017 3:24:12 PM
To: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: FYI - Bill Wehrum's ethics briefing
Location: 5400

Start: 11/14/2017 9:00:00 PM
End: 11/14/2017 10:00:00 PM
Show Time As: Busy

Message

From: Minoli.Kevin@epa.gov [Minoli.Kevin@epa.gov]
Sent: 9/24/2018 6:08:43 AM
To: Leopold, Matt (OGC) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4e5cdf09a3924dada6d322c6794cc4fa-Leopold, Ma]
Subject: Fwd: Bill Wehrum's visit to Hunton after he was confirmed--violation of federal ethics rules.

Matt-

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Kevin S. Minoli
Principal Deputy General Counsel &
Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

Begin forwarded message:

From: "Konkus, John" <konkus.john@epa.gov>
Date: September 21, 2018 at 1:09:40 PM EDT
To: "Lipton, Eric" <lipton@nytimes.com>
Cc: "Minoli, Kevin" <Minoli.Kevin@epa.gov>
Subject: RE: Bill Wehrum's visit to Hunton after he was confirmed--violation of federal ethics rules.

Eric: If you end up writing, please include this statement from me:

"Since joining the EPA, Mr. Wehrum has understood and abided by ethics rules. He has screened participants in meetings held at EPA and invitations to events external to EPA and will continue to do so. In this case, he spoke to a group that included former clients in the audience and also included many other interested parties which follows ethics rules and the Trump pledge."

Thank you,

John Konkus
Environmental Protection Agency
Deputy Associate Administrator for Public Affairs
Mobile: (202) 365-9250

From: Lipton, Eric [<mailto:lipton@nytimes.com>]
Sent: Friday, September 21, 2018 10:17 AM
To: Konkus, John <konkus.john@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: Re: Bill Wehrum's visit to Hunton after he was confirmed--violation of federal ethics rules.

Thanks John.

If I could get a response by the end of the day, I would appreciate it.

Thank you

Eric

Eric Lipton
The New York Times
Washington Bureau
202.852.0448 office
Personal Phone / Ex. 6 :mobile
lipton@nytimes.com

On Fri, Sep 21, 2018 at 10:11 AM Konkus, John <konkus.john@epa.gov> wrote:

Eric: We will work on these. What's your deadline, expectations for response?

Thanks,

John

From: Lipton, Eric [mailto:lipton@nytimes.com]
Sent: Friday, September 21, 2018 9:50 AM
To: Konkus, John <konkus.john@epa.gov>; Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: Bill Wehrum's visit to Hunton after he was confirmed--violation of federal ethics rules.

Hello John

Information provided to me leads me to believe that Bill Wehrum violated federal ethics rules when he visited Hunton & Williams in December 2017.

The violation seems quite clear, based on the attached OGE guidance memo.

It says that

An employee is prohibited from giving an official speech to an organization whose interests are imputed to the employee under section 208, if the speech would have a direct and predictable effect on the organization's financial interest. In OGE's experience, usually the sponsor of an event will have a financial interest in an official speech only if an admission fee is charged, the event is a fundraiser, **or the event is some kind of business development activity (such as a seminar for current or prospective clients).**

Thus, if the former employer or client charges an admission fee or organizes the event for the purpose of fundraising or business development, **the appointee will be barred from giving an official speech**, absent a waiver under section 3 of the Executive Order. Even where Pledge paragraph 2 is inapplicable, ethics officials are reminded to analyze any official speaking engagements under 18 U.S.C. § 208 and 5 C.F.R. §2635.502, as discussed above.

1) Can you address please if Mr. Wehrum has been notified that he violated ethics rules by giving these remarks.

2) Can you tell me what steps the EPA has taken to prevent Mr. Wehrum from violating ethics rules again.

3) Has any kind of a letter been sent to Mr. Wehrum discussing this matter by EPA's DAEO? If not, why not. And if it has, can I have a copy of the letter please.

Thank you in advance for your help

ERIC

Eric Lipton

The New York Times

Washington Bureau

202 862 0448 office

Personal Phone / Ex. 6 mobile

lipton@nytimes.com

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 4/23/2018 9:34:01 PM
To: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: FW: Recusal [Deliberative Process / Ex. 5] update
Attachments: Bill Wehrum recusal 3_27_18.docx; ATT00001.htm

Kevin – Here’s the latest draft.

Bill Wehrum
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
(202) 564-7404

From: Lewis, Josh
Sent: Wednesday, March 28, 2018 5:00 AM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>
Subject: Recusal [Deliberative Process / Ex. 5] update

Bill,

Attached is the latest draft of your recusal.. [Deliberative Process / Ex. 5]

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 11/28/2017 11:38:55 PM
To: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: RE: Today

Hi Kevin. I'm just coming up for air today. Do you have time tomorrow? Maybe early before your meetings start?

From: Minoli, Kevin
Sent: Tuesday, November 28, 2017 1:06 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>
Subject: Re: Today

Hi Bill- I'm now at the Executive Management Council Meeting, but that is set to wrap at 4:30 today. Would it work to meet then (or between then and 6:00)? Kevin

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8040

On Nov 27, 2017, at 8:21 AM, Wehrum, Bill <Wehrum.Bill@epa.gov> wrote:

I see you are out of the office today. Perhaps tomorrow?

Bill Wehrum
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
(202) 564-7404

On Nov 27, 2017, at 8:20 AM, Wehrum, Bill <Wehrum.Bill@epa.gov> wrote:

Kevin - Do you have a few minutes today to chat about refusals? Maybe a few minutes after the senior staff meeting? Justina has been very helpful, but I'm hoping for your insight on a couple issues. Thanks.

Bill Wehrum
Assistant Administrator
Office of Air and Radiation

U.S. Environmental Protection Agency
(202) 564-7404

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 11/30/2017 4:54:19 PM
To: Minoli, Kevin [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c9c0070d651a4625ac20258369f9b050-KMINOLI]
Subject: RE: Following Up

Thanks Kevin.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Minoli, Kevin
Sent: Thursday, November 30, 2017 11:51 AM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>
Subject: Following Up

Bill- Justina and I were just caught down in Ryan's office for the last 75 minutes so I apologize that this is latter in the morning than I had hoped.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5 Happy to come back up and discuss more if you would like. Thanks, Kevin

Kevin S. Minoli
 Acting General Counsel
 Office of General Counsel
 US Environmental Protection Agency
 Main Office Line: 202-564-8040

From: Wehrum, Bill
Sent: Thursday, November 30, 2017 9:32 AM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: RE: Automatic reply: Today

Kevin – Just let me know when you have time. I'll step out of what I'm doing.

From: Wehrum, Bill
Sent: Thursday, November 30, 2017 9:02 AM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>
Subject: RE: Automatic reply: Today

Thanks Kevin. 9:15 or 9:20 would be good, if possible. Shouldn't take long.

From: Minoli, Kevin
Sent: Thursday, November 30, 2017 8:31 AM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>
Subject: Re: Automatic reply: Today

Hi Bill- I am just seeing your email. Any chance 9:30 or any time between 11:15 and 3:00 would work. I was coming in for 9:30 today (I am hosting an art show for a friend this weekend so am taking a few hours to help prepare), but I could also try and be there by 9:15 if that makes a difference. Kevin

Kevin S. Minoli
Acting General Counsel
Office of General Counsel
US Environmental Protection Agency
Office Line: 202-564-8040
Direct Dial: 202-564-5551

From: Wehrum, Bill
Sent: Wednesday, November 29, 2017 8:26 PM
To: Minoli, Kevin
Subject: Re: Automatic reply: Today

Hi Kevin. Can you talk at 9 am tomorrow?

Bill Wehrum
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
(202) 564-7404

On Nov 28, 2017, at 6:38 PM, Minoli, Kevin <Minoli.Kevin@epa.gov> wrote:

Hello- I will be in all day meetings on the 28th and 29th and generally unable to review or respond to messages.

In my absence, you may contact Erik Baptist or Rich Albores. If you would like to flag your message to ensure I review it, please forward it to Derek Mills and Shaun Trudeau. If your message is time sensitive and you must reach me as soon as possible, contact the OGC main office line at 202-564-8040.

Thank you, Kevin

Message

From: Minoli, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C9C0070D651A4625AC20258369F9B050-KMINOLI]
Sent: 9/30/2018 2:59:50 AM
To: Cozad, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4a30a28be6a74d3da779bb7f7b34a876-COZAD, DAVID]; Fugh, Justina (Fugh.Justina@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]; Clarke, Victoria [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Clarke, Victoria]
CC: Packard, Elise [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6d4ad4c6abb24f54a2c8c16fa17ba0fd-Packard, El]
Subject: FW: Copy of Letter to Senator Whitehouse
Attachments: Whitehouse Wehrum Recusal.Signed.pdf; OGE Memo on Pledge and Speeches.DO-09-020.pdf

All- FYI, here is my email sharing the letter to Sen Whitehouse with Bill and providing him with the OGE memo on speeches. Thanks, Kevin

Kevin S. Minoli

Principal Deputy General Counsel
 & Designated Agency Ethics Official
 Office of General Counsel
 US Environmental Protection Agency
 Main Office Line: 202-564-8064

From: Minoli, Kevin
Sent: Saturday, September 29, 2018 10:57 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>
Subject: Copy of Letter to Senator Whitehouse

Bill- As I prepared to complete my federal service on September 30, 2018, it was important to me that I respond to any outstanding letters addressed to me from Members of Congress. Attached please find a copy of my response to Senator Whitehouse related to two letters from him that address your compliance with the federal ethics rules and the Trump Ethics Pledge. The response notes our engagement with you and your staff throughout your current EPA tenure, the recusal statement you signed on Sept 17, 2018, and your Sept 27, 2018, update to your Certification of Ethics Agreement Compliance. I sent the signed version to OCIR for processing earlier this evening and wanted to provide you a copy before they transmitted it.

Deliberative Process / Ex. 5

I also wanted to provide you with a copy of an OGE Memo that explains how the Pledge applies to official speeches and presentations at a former employer or client. This memo gives an appointee some additional ability to make such speeches and presentations, but also establishes an absolute prohibition on such speeches or presentations when the event would have a "demonstrable financial effect on the former employer or client." The memo states that there is a demonstrable financial effect when an "admission fee is charged, the event is

a fundraiser, or the event is some kind of business development activity (such as a seminar for current or prospective clients).” Importantly, there is no exception from this prohibition for events where the presentation is open to all interested parties or attended by parties with a variety of viewpoints; rather, the OGE memo states that in order to speak, a waiver from the White House is required. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

It was nice to work with you again after a number of years and I hope you enjoy the rest of your second tour at EPA. My resignation is effective tomorrow (Sept 30th), but the Acting Administrator and Matt will be sharing information on the next DAEO imminently.

Thanks, Kevin

Kevin S. Minoli

Principal Deputy General Counsel
& Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8064

Message

From: Minoli, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C9C0070D651A4625AC20258369F9B050-KMINOLI]
Sent: 9/10/2018 6:38:55 PM
To: Fugh, Justina (Fugh.Justina@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
Subject: Memo
Attachments: Deliberative Process / Ex. 5

Justina- Attached is a clean version and a redline version. Please let me know what you think. Thanks! Kevin

Kevin S. Minoli

Principal Deputy General Counsel
& Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8064

Message

From: Minoli, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C9C0070D651A4625AC20258369F9B050-KMINOLI]
Sent: 8/9/2018 10:56:52 PM
To: Fugh, Justina (Fugh.Justina@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Keith, Jennie [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=79c2d25e4dfe45ceaf788a87f714cc0f-JKEITH]; Clarke, Victoria [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Clarke, Victoria]; Ross, Margaret [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=38caf91847dd4f95810c1f96d918871c-Ross, Margaret]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]; Duross, Jeanne [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1771ddaf869f40998535d410e5b1a93e-Jduross]
Subject: FW: Letter from Senators Carper and Whitehouse
Attachments: 2018 04 24 Kevin Minoli_Perrotta.pdf

I knew I was not crazy! In addition to the 278 letter, I also received a letter regarding Nino addressed to me.

There were also at least two letters I was cc'd on, one on Oklahoma records issues and one on Wehrum.

Kevin

Kevin S. Minoli

Principal Deputy General Counsel
 & Designated Agency Ethics Official
 Office of General Counsel
 US Environmental Protection Agency
 Main Office Line: 202-564-8064

From: Ferrato, Margaret (Whitehouse) [mailto:Margaret_Ferrato@whitehouse.senate.gov]
Sent: Tuesday, April 24, 2018 10:33 AM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>
Cc: Lyons, Troy <lyons.troy@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Gaeta, Joe (Whitehouse) <Joe_Gaeta@whitehouse.senate.gov>; Freedhoff, Michal (EPW) <Michal_Freedhoff@epw.senate.gov>
Subject: Letter from Senators Carper and Whitehouse

Hello Kevin,

I hope you're well. Attached please find a letter to you from Senators Carper and Whitehouse. Don't hesitate to reach out with any questions or concerns.

All the best,
 Maggie

Margaret Ferrato

Associate Legislative Assistant
 Office of Senator Sheldon Whitehouse
 530 Hart Senate Office Building
 Washington, DC 20510
 (202) 224-6564

Message

From: Minoli, Kevin [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C9C0070D651A4625AC20258369F9B050-KMINOLI]
Sent: 9/30/2018 1:39:16 AM
To: Knapp, Kristien [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=8d4ab10c47264bca8b12174cdb981942-KKnapp]
CC: Cozad, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4a30a28be6a74d3da779bb7f7b34a876-COZAD, DAVID]; Fugh, Justina (Fugh.Justina@epa.gov) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Packard, Elise [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6d4ad4c6abb24f54a2c8c16fa17ba0fd-Packard, El]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]; Clarke, Victoria [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=Clarke, Victoria]
Subject: Sen Whitehouse Letter
Attachments: Wehrum signed recusal 9_17_18.pdf; Wehrum signed EA compliance 9_27_18.pdf; Whitehouse Wehrum Recusal.Signed.pdf

Hi Kristien- Per Shannon's note, I am sending you the copy of the letter I just signed. My last day as a government employee is Sunday the 30th, so unless you reach me then please follow up with the folks on the cc line. Thanks, Kevin

Kevin S. Minoli

Principal Deputy General Counsel
 & Designated Agency Ethics Official
 Office of General Counsel
 US Environmental Protection Agency
 Main Office Line: 202-564-8064

From: Griffo, Shannon
Sent: Friday, September 28, 2018 10:59 AM
To: Minoli, Kevin <Minoli.Kevin@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Packard, Elise <Packard.Elise@epa.gov>; Cozad, David <Cozad.David@epa.gov>; Monson, Mahri <Monson.Mahri@epa.gov>; Clarke, Victoria <clarke.victoria@epa.gov>
Subject: RE: Comments on Sen Whitehouse Letter

Kevin,

Here are the changes to the Whitehouse letter, along with the signed copy of Bill's recusal statement and his updated ethics agreement compliance form. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

I'm teleworking and reachable at my office number, and Victoria is in the office today.

Thanks,
Shannon

Shannon Griffo
Ethics Attorney
Office of General Counsel, Ethics
U.S. Environmental Protection Agency
(202) 564-7061
Griffo.Shannon@epa.gov

From: Minoli, Kevin
Sent: Friday, September 28, 2018 3:04 AM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Cc: Packard, Elise <Packard.Elise@epa.gov>; Cozad, David <Cozad.David@epa.gov>; Monson, Mahri <Monson.Mahri@epa.gov>
Subject: Comments on Sen Whitehouse Letter

Attached are hand written notes on the Whitehouse letter. Some are probably hard to decipher, so I will be available later today to translate.

Deliberative Process / Ex. 5

Thanks, Kevin

Kevin S. Minoli
Principal Deputy General Counsel
& Designated Agency Ethics Official
Office of General Counsel
US Environmental Protection Agency
Main Office Line: 202-564-8064

Appointment

From: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Sent: 9/10/2018 5:18:56 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Shaw, Betsy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31ca1476a7674825a131cb2c0d6c88c8-BShaw03]
Subject: Ethics Training
Attachments: OVERVIEW - one-pager on ethics vetting of invitations.pdf; BROCHURE - Engage in Ethics.pdf; RE: Embedding Ethics into Your Calendaring Process
Location: Alm Room
Start: 9/10/2018 7:00:00 PM
End: 9/10/2018 7:30:00 PM
Show Time As: Busy

To: Bill Wehrum, Betsy Shaw



BROCHURE -
Engage in Ethics...



RE: Embedding
Ethics into Your ...



OVERVIEW -
one-pager on eth...



Prevention: The goal of the EPA Ethics Program is to prevent ethics problems before they start. By engaging in ethics, knowing your obligations, spotting potential issues, and seeking advice when you're not sure about something, we can build and sustain a culture of ethical federal service. The EPA ethics officials are here to help you every step of the way, but we can't help if you don't ask!

Advice: If you provide all relevant details about a potential ethics issue to your DEO or ADEO in advance, and you rely on their advice, then you cannot be administratively disciplined for relying on it—even if it's wrong. This insulation from disciplinary action applies only if you get your advice from an ethics official in advance and only for non-criminal issues.

Compliance: If an ethics issue does arise, then the EPA Ethics Program will work with you to resolve the issue and achieve ethical compliance. If a violation of an ethics law or regulation has already occurred, then a supervisor may consider disciplinary action or the matter may be referred to the EPA Inspector General. The EPA Ethics Program has no independent investigatory or disciplinary authority.

Ethical federal service should be a point of pride for all EPA employees.

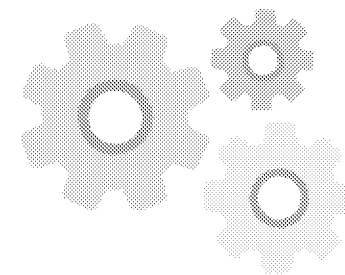
The EPA Ethics Program works with all EPA employees to implement federal ethics laws and regulations. Every EPA employee plays a vital role in building and maintaining a culture of ethical federal service.

Contact Us

EPA Ethics Helpline: (202) 564-2200

EPA Ethics email: ethics@epa.gov

https://usepa.sharepoint.com/sites/OGC_Work/ethics/



Engage in Ethics

Protect the public trust at EPA



United States
Environmental Protection
Agency

Steps to Ethics Engagement



14

Start With the 14 Principles

The Standards of Ethical Conduct for Employees of the Executive Branch begin with fourteen general principles. As an executive branch employee, you must understand and apply these principles in your conduct.



Spot Ethics Issues

Think about situations in which ethics issues might arise for yourself or your colleagues. Supervisors also have a heightened personal responsibility to serve as a role model for subordinates.



Get Ethics Advice

Anytime you are unsure about whether or how an ethics rule or principle might apply in a particular situation, ask for ethics advice. Each EPA program office and region has a Deputy Ethics Official (DEO), and in many cases, an Assistant Deputy Ethics Official (ADEO), whose jobs are to provide you with ethics advice. To find your DEO and ADEO, use the DEO finder tool on the new EPA Ethics SharePoint site.

14 Principles of Ethical Conduct

- 1 Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.
- 2 Employees shall not hold financial interests that conflict with the conscientious performance of duty.
- 3 Employees shall not engage in financial transactions using non-public Government information or allow the improper use of such information to further any private interest.
- 4 An employee shall not solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties. (Limited exceptions apply.)
- 5 Employees shall put forth honest effort in their performance.
- 6 Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.
- 7 Employees shall not use public office for private gain.
- 8 Employees shall act impartially and not give preferential treatment to any private organization or individual.
- 9 Employees shall protect and conserve Federal property and shall not use it for other than authorized activity.
- 10 Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.
- 11 Employees shall disclose waste, fraud, abuse, and corruption to authorities.
- 12 Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those—such as Federal, State, or local taxes—that are imposed by law.
- 13 Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.
- 14 Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part.

ENGAGE IN ETHICS

INVITATIONS VETTING PROJECT

ETHICS@EPA.GOV / 202-564-2200

Executive Summary

- Help prevent conflicts of interest and other ethics issues by embedding ethics review into the calendaring process for principals (principals = Acting Administrator, Deputy Administrator, Assistant Administrators, and Regional Administrators, certain Deputy Associate Administrators)
- Ensure principals' staff are alert to possible lobbying gift ban and recusal issues, as well as possible Hatch Act, travel and gift concerns
- Provide training to a variety of audiences during September 2018

Implementation

Embedding Ethics

- Principals, their staff, and Deputy Ethics Officials (DEOs) work together to establish or re-establish process for incorporating ethics vetting of the principal's calendar
- OGC/Ethics will provide training and tools (e.g., event request form, sample templates for ethics advice, lobbying gift ban cheat sheet)

Training

- OGC/Ethics will provide several training sessions to HQ staffers, HQ ethics officials, and Regional ethics officials on embedding ethics into the calendaring process
Estimated length of training: 2.5 hours
- Regional ethics officials will provide training to their Principal's staff in the regions
Estimated length of training: 2.5 hours
- OGC/Ethics will provide training to the principals during the regularly-scheduled Monday senior staff meeting at 2pm EST
Estimated length of training: currently, one 20-minute session
- OGC/Ethics will provide a separate training on the Lobbyist Gift Ban for all ethics officials
Estimated length of training: 1.0 hour
- OGC/Ethics will create all training documents and tools

Ongoing efforts by OGC/Ethics

- Ensure a more uniform and consistent process for reviewing calendars across the Agency
- Encourage more cross-office coordination when principals travel together
- Continue to provide support and training as needed

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 9/7/2018 3:11:58 PM
To: Shaw, Betsy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31ca1476a7674825a131cb2c0d6c88c8-BShaw03]; Monroe, Scott [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2c66d1cb877417db50c4f90b30ad2ca-SMONROE]
Subject: RE: Embedding Ethics into Your Calendaring Process

I'm sure he'll be fine w/ that...but will confirm at 2 pm today

From: Shaw, Betsy
Sent: Friday, September 07, 2018 10:40 AM
To: Monroe, Scott <Monroe.Scott@epa.gov>
Cc: Lewis, Josh <Lewis.Josh@epa.gov>
Subject: Re: Embedding Ethics into Your Calendaring Process

Thanks Scott. If Bill's cool with that, that would spare me having to reschedule a number of meetings, although I'm happy to do so if necessary.

Sent from my iPhone

On Sep 6, 2018, at 5:39 PM, Monroe, Scott <Monroe.Scott@epa.gov> wrote:

I am free at 2:00 on Monday to accompany Bill if Betsy is not able to do so.

Scott

From: Shaw, Betsy
Sent: Thursday, September 6, 2018 4:41 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Monroe, Scott <Monroe.Scott@epa.gov>
Subject: FW: Embedding Ethics into Your Calendaring Process

This just in.

From: Monson, Mahri On Behalf Of Minoli, Kevin
Sent: Thursday, September 06, 2018 4:36 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>
Cc: Shaw, Betsy <Shaw.Betsy@epa.gov>; Keith, Jennie <Keith.Jennie@epa.gov>
Subject: Embedding Ethics into Your Calendaring Process

Dear Bill,

This communication follows up on the ethics presentation provided by the White House on July 19 and Ryan Jackson's email on August 10. In July, Justina Fugh mentioned an upcoming training project OGC/Ethics is undertaking to better support you and your staff regarding appropriate ethics help on scheduling. OGC/Ethics calls this effort "reviewing and/or vetting invitations."

Set forth below is an executive summary, as well as actions we ask you to take. Attached is a quick one-page description of this effort. If you prefer to read more, [click here](#) for an overview of this ethics counseling practice.

EXECUTIVE SUMMARY and **ACTIONS WE ASK YOU TO TAKE**

OGC/Ethics hopes to:

- Help prevent conflicts of interest and other ethics issues by embedding ethics review into the calendaring process for principals (principals = Acting Administrator, Deputy Administrator, Assistant Administrators, and Regional Administrators, certain Associate Administrators).
- Ensure principals' staff are alert to possible lobbying gift ban and recusal issues, as well as possible Hatch Act, travel and gift concerns.
- Train a variety of audiences on this process during the month of September 2018.

The actions we ask you to take:

- Attend the ethics training for principals during the senior staff meeting on Monday, September 10, 2018 at 2:00PM EST. The Administrator's Office extended the meeting by an additional half hour for the training. Please ask your staff to print out the brochure and your recusal documents to bring to the training – all attached to this email (if none, that means you have no recusal documents). OGC/Ethics will also coordinate with your local ethics officials so that one of them may attend this training with you.
- Work with your Deputy Ethics Official(s), cc'd on this email, to identify which members of your staff should take the other trainings ethics officials will provide during the month of September, and ensure that they take the training.

Thank you for your support.

Your Designated Agency Ethics Official and
Principal Deputy General Counsel,

Kevin Minoli

ADDITIONAL BACKGROUND INFORMATION

You are already familiar with OGC/Ethics because, when you entered government service, we reviewed your new entrant financial disclosure report and helped to identify your ethics issues. However, the ethics process doesn't stop when you come on board. Proactive ethics counseling is necessary to help you avoid ethics issues and maintain the integrity of agency operations throughout your tenure. One of the ways ethics issues present themselves is through your scheduling process.

Therefore, the best way to help you identify and resolve ethics issues with your calendars is to work more closely with your ethics officials. To that end, OGC/Ethics encourages you to embed ethics in the vetting process of your calendar. Here are just a few of the types of ethics issues that come up:

- President's Ethics Pledge – Lobbyist Gift Ban
- Screening for Recusal Obligations
- Invitations to Fundraisers
- Invitations to Political Events

- Gifts
 - Meals related to speaking engagements
 - Receptions
 - Gifts of Travel
- Endorsements

Currently, OGC/Ethics works with the staff of the Administrator, Deputy Administrator, and General Counsel to vet their calendars. Based on our experience, we want to routinize the ethics vetting process across the agency for the most senior leaders to help you “embed ethics” into your calendaring processes. While this is not a new requirement, we’re taking this opportunity to implement more consistency and uniformity in this important ethics area.

IMPLEMENTATION: How to Embed Ethics into Your Scheduling Process

Please ask your staff to work with your local ethics officials to integrate ethics advice into the scheduling process. Your staff should vet the following (at a minimum):

- any external (to the agency) event you are seriously considering prior to confirmation of attendance;
- EPA-hosted meetings at which external parties are present; and
- A detailed travel itinerary (frequently referred to as the travel line-by-line document) when you are in travel status.

To assist your staff, OGC/Ethics will provide your office with several tools to aid in the procedure:

- An event request form for external persons to complete when requesting your participation at their event. This form will provide your office with the information it needs to determine whether there are any ethics issues (in addition to general logistical information required when attending the event).
- Sample templates for ethics officials to use when providing you advice.
- Lobbyist gift ban guidance document for your ethics officials to use and ensure you don’t inadvertently accept a gift from a federally registered lobbyist.

Finally, implementation of this process will also involve training. OGC/Ethics is kicking off its training efforts first with a 20-minute session for you. This training is

currently scheduled for the senior staff meeting on September 10. We will also work with your Deputy Ethics Official to attend this meeting with you.

In addition to training you, OGC/Ethics will also train the headquarters employees who staff the agency's senior leaders, and your ethics officials. Regional ethics officials will work with regional staffers to train them. Training is necessary to understand the ethics issues that arise and why it's important that ethics review is integrated into the calendaring process. This training will take place in September.

We know that this will take some time to implement and there may be some bumps, as all parties adjust to creating a different calendaring process. Please help support your staff's efforts to make sure the scheduling process works for all and that ethics issues are considered. We will be there for you and help support your staff and ethics officials. By implementing this vetting process, we will make the agency's ethics program more effective, strong, and visible, thereby increasing the awareness of all of our ethics obligations and protecting the public's trust. On behalf of OGC/Ethics, thank you.

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 9/10/2018 6:49:27 PM
To: Shaw, Betsy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31ca1476a7674825a131cb2c0d6c88c8-BShaw03]
Subject: Ethics Training ...

... will start in just a minute. Main meeting ended early.

Bill Wehrum
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
(202) 564-7404

Appointment

From: Atkinson, Emily [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BB2155ADEF6A44AEA9410741F0C01D27-ATKINSON, EMILY]
Sent: 9/10/2018 5:18:53 PM
To: Shaw, Betsy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31ca1476a7674825a131cb2c0d6c88c8-BShaw03]
Subject: Ethics Training
Attachments: OVERVIEW - one-pager on ethics vetting of invitations.pdf; BROCHURE - Engage in Ethics.pdf; RE: Embedding Ethics into Your Calendaring Process
Location: Alm Room
Start: 9/10/2018 7:00:00 PM
End: 9/10/2018 7:30:00 PM
Show Time As: Tentative

To: Bill Wehrum, Betsy Shaw



BROCHURE -
Engage in Ethics...



RE: Embedding
Ethics into Your ...



OVERVIEW -
one-pager on eth...

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 9/10/2018 4:59:00 PM
To: Shaw, Betsy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31ca1476a7674825a131cb2c0d6c88c8-BShaw03]; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
CC: Monroe, Scott [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e2c66d1cb877417db50c4f90b30ad2ca-SMONROE]
Subject: RE: Ethics training

Thanks Betsy.

Bill Wehrum
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
(202) 564-7404

From: Shaw, Betsy
Sent: Monday, September 10, 2018 12:58 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Lewis, Josh <Lewis.Josh@epa.gov>
Cc: Monroe, Scott <Monroe.Scott@epa.gov>
Subject: Ethics training

We've just learned that the ethics training is at 3:00 p.m. rather than 2:00 p.m. as we previously understood, so I will be joining you Bill rather than Scott Monroe. See you in the Alm Room at 3:00 p.m..

Appointment

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 12/13/2017 2:02:43 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Griffo, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]; Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
Subject: Follow Up with OGC/Ethics
Location: 5400
Start: 12/19/2017 7:00:00 PM
End: 12/19/2017 7:30:00 PM
Show Time As: Busy

To: Griffo, Shannon; Fugh, Justina; Lewis, Josh

Appointment

From: Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]
Sent: 9/10/2018 12:30:41 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Millett, John [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c067caa6c93544f78c26ab08cc567d27-Millett, John]; DeLuca, Isabel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0b021c30cbee4637a7c7ca683e5e044a-IDELUCA]; OARINVITATIONS [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e9706ba8d3d6413980dc908f0068e421-OARINVITATI]
Subject: American Coke and Coal Chemicals Institute (ACCCI) Manufacturing, Environmental, and Safety and Health (MESH) Committee Speech (Confirmed)
Attachments: Fwd: REQUEST FOR YOUR TO SPEAK ON THE MORNING OF THURSDAY, OCTOBER 11 AT THE FALL 2018 MEETING OF ACCCI'S MESH COMMITTEE ; Event Form OAR AA-ACCCI.DOCX; Fall 2018 MESH Agenda - Draft.doc; Fwd: REQUEST FOR YOU TO SPEAK ON THE MORNING OF THURSDAY, OCTOBER 11 AT THE FALL 2018 MEETING OF ACCCI'S MESH COMMITTEE ; FW: Request for Bill Wehrum to speak at the Fall 2018 meeting of ACCCI'S MESH Committee; RE: REQUEST FOR YOU TO SPEAK ON THE MORNING OF THURSDAY, OCTOBER 11 AT THE FALL 2018 MEETING OF ACCCI'S MESH COMMITTEE
Location: Law Offices of ACCCI's Clean Air Act (CAA) Counsel Pillsbury Winthrop Shaw Pittman (PWSP) (1200 Seventeenth Street, NW, Washington, DC 20036-3006)
Start: 10/11/2018 1:00:00 PM
End: 10/11/2018 2:00:00 PM
Show Time As: Busy

Ethics Review Completed – no issues



Fwd: REQUEST
FOR YOUR TO ...



Fall 2018 MESH
Agenda - Draft.doc



Event Form OAR
AA-ACCCI.DOCX



Fwd: REQUEST
FOR YOU TO S...



FW: Request for
Bill Wehrum to s...



RE: REQUEST
FOR YOU TO S...

AMERICAN COKE AND COAL CHEMICALS INSTITUTE

FALL 2018 MEETING OF THE
ACCCI MANUFACTURING, ENVIRONMENTAL,
AND SAFETY AND HEALTH (MESH) COMMITTEE

Thursday, October 11 – Friday, October 12, 2018

Law Offices of Pillsbury Winthrop Shaw Pittman
1200 Seventeenth Street, NW
Washington, DC 20036-3006

* * * * *

DRAFT AGENDA

THURSDAY, OCTOBER 11

- **7:00 AM EDT: HOT BUFFET BREAKFAST @ PILLSBURY WINTHROP SHAW PITTMAN'S FIRST FLOOR CONFERENCE CENTER**

- I. **PRESENTATIONS BY INVITED SPEAKERS (7:30 AM – 1:00 PM EDT, INCLUDING A GROUP LUNCHEON FROM 12:00 NOON TO 1:00 PM EDT)**
 - A. Presentation/Discussion — “NAAQS Update” (Mr. Joe Stanko, Esq., Hunton & Williams) (7:30 AM – 8:00 AM EDT)
 - B. Presentation/Discussion — “Clean Air Act Update” (Mr. Jeff Knight, Esq., Pillsbury Winthrop Shaw Pittman) (8:00 AM - 9:00 AM EDT)

 - **9:00 AM – 9:15 AM EDT: BREAK**

 - C. Presentation/Discussion — “EPA Update” () (9:15 AM – 10:15 AM EDT)
 - D. Presentation/Discussion — “DOL HR Update” () (10:15 AM – 11:00 AM EDT)
 - E. Presentation/Discussion — “DOL OSHA Update” () (11:00 AM – 11:45 AM EDT)

 - 11:45 AM – 12:00 NOON EDT: BREAK**

 - 12:00 NOON – 1:00 PM EDT: GROUP LUNCHEON**

 - F. Presentation/Discussion — “PCTC Update” (Dr. Anne LeHuray, Pavement Coatings Technology Council (PCTC)) (12:15 PM - 1:00 PM EDT)

Agenda for the Fall 2018 Meeting of the ACCCI MESH Committee
Page [PAGE]

II. CALL-TO-ORDER OF AND INITIAL BUSINESS FOR THE FALL 2018 MEETING OF THE ACCCI MESH COMMITTEE @ PILLSBURY WINTHROP SHAW PITTMAN'S FIRST FLOOR CONFERENCE CENTER (FIRST FLOOR) (1:00 PM EDT)

A. CALL-TO-ORDER — Don Wiggins (ERP Compliant Coke), Chairman - MESH Committee

B. Introductions

C. Initial Committee Business

1. Antitrust Reminder [p. 3]
2. Date/Location/Format of the Next Meeting
3. Recap of Recent Meetings of ACCCI's Board
4. Overview of Meeting Schedule
5. Other Issues [pp. 4-6]

III. MEETING OF MESH ENVIRONMENTAL SUBCOMMITTEE (1:15 PM¹ - 2:45 PM EDT)

A. CALL-TO-ORDER OF MESH ENVIRONMENTAL SUBCOMMITTEE MEETING (1:15 PM EDT) — Brenna Harden (DTE-EES), Chairman – MESH Environmental Committee

B. Roundtable Discussion on the Day's Environmental Presentations

C. Update on Other Environmental Issues David Ailor/Other Subcommittee Members

C. Roundtable Discussion (Inspections, Permitting, Projects, *Etc.*)

D. Other Issues

2:45 PM – 3:00 PM EDT: BREAK

IV. MEETING OF MESH SAFETY AND HEALTH SUBCOMMITTEE (3:00 PM¹ – 4:30 PM EDT)

A. CALL-TO-ORDER OF MESH SAFETY AND HEALTH SUBCOMMITTEE MEETING (3:00 PM EDT) — Terry Wagaman (DTE-EES), Chairman - MESH Safety and Health Subcommittee

¹ The call-to-order time shown is approximate. Should the previous session adjourn earlier than expected, the call-to-order time for this session will be advanced accordingly.

Agenda for the Fall 2018 Meeting of the ACCCI MESH Committee

Page [PAGE]

B. Roundtable Discussion on the Morning's DOL-OSHA Update

C. Update on Safety/Health Issues

Terry Wagaman/David Ailor

[Wagaman Presentation]

D. "EES' Coke Battery Safety Culture"

Terry Wagaman

[Wagaman Presentation]

E. Roundtable Discussion

- Recent OSHA Inspections, Citations, Incidents and Appeals
- Recent Significant Lost Time Accidents and Near Misses

F. Other Issues

V. MEETING OF MESH QUALITY SUBCOMMITTEE (4:30 PM¹ – 5:00 PM EDT)

A. CALL-TO-ORDER OF MESH SAFETY AND HEALTH SUBCOMMITTEE MEETING (4:30 PM EDT) — Jeff McCord (ABC Coke), Chairman - MESH Quality Subcommittee

B. ASTM Developments **[McCord Presentation]**

C. Other Issues

THURSDAY NIGHT GROUP DINNER**@ THE PALM DC****(, N.W., Washington, D.C. 20036, Tel.: 202-)**

- 6:15 PM: Meet in Lobby of the St. Gregory Luxury Hotel & Suites, 2033 M Street, N.W., Washington, D.C. 20036-3305)
- 6:20 PM: Depart for restaurant on foot
- 6:30 PM: Cocktails
- 7:00 PM: Dinner

FRIDAY, OCTOBER 12

- **7:00 AM EST: HOT BUFFET BREAKFAST @ PILLSBURY WINTHROP SHAW PITTMAN**

¹ The call-to-order time shown is approximate. Should the previous session adjourn earlier than expected, the call-to-order time for this session will be advanced accordingly.

Agenda for the Fall 2018 Meeting of the ACCCI MESH Committee
Page [PAGE]

VI. MEETING OF MESH HUMAN RESOURCES SUBCOMMITTEE (7:30 AM¹ – 9:00 AM EST)

- A. CALL-TO-ORDER OF MESH HUMAN RESOURCES SUBCOMMITTEE MEETING (7:30 AM EDT) — MESH Committee Chairman Don Wiggins (ERP Compliant Coke) for (Vacant) Chairman of MESH Human Resources Subcommittee
- B. Roundtable Discussion on Yesterday's DOL HR Update
- C. Update/Discussion on Other HR Issues
- D. Roundtable Discussion (Union Issues, Employee Policies, *Etc.*)
- E. Other Issues

9:00 AM – 9:15 AM EDT: BREAK

VII. MEETING OF THE MESH MANUFACTURING SUBCOMMITTEE (9:15 AM¹ – 10:45 AM EDT)

- A. CALL-TO-ORDER OF MESH MANUFACTURING SUBCOMMITTEE (9:15 AM EDT) — Joe Clute (DTE-EES), Chairman – MESH Manufacturing Subcommittee
- B. Roundtable Discussion
 - Projects, Maintenance, Repairs
 - Machinery Issues
 - Instrumentation Issues
 - Operating Practices
 - Refractories, Materials
- C. Other Issues

VIII. OTHER BUSINESS - MESH Committee (10:45 AM¹ – 11:00 AM EDT)

IX. ADJOURNMENT - Meeting of MESH Committee (by 11:00 AM EDT)

¹ The call-to-order time shown is approximate. Should the previous session adjourn earlier than expected, the call-to-order time for this session will be advanced accordingly.

Message

From: DeLuca, Isabel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0b021c30cbee4637a7c7ca683e5e044a-IDELUCA]
Sent: 9/10/2018 7:40:46 PM
To: Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]
Subject: FW: Request for Bill Wehrum to speak at the Fall 2018 meeting of ACCCI'S MESH Committee

Hi Emily,

The ACCCI invitation for Bill has cleared ethics review so I am reaching out to confirm he can be there. The organizer has asked if Bill could be available from 9:00AM to 10:00AM (rather than 9:15, which is on the event form). Could you help update his calendar?

Many thanks!
Isabel

From: Griffo, Shannon
Sent: Monday, September 10, 2018 3:18 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Cc: DeLuca, Isabel <DeLuca.Isabel@epa.gov>
Subject: RE: Request for Bill Wehrum to speak at the Fall 2018 meeting of ACCCI'S MESH Committee

Hi Josh,

I don't have any ethics concerns with Bill accepting the invitation to speak at this meeting. I did notice that one of the other speakers is from Hunton & Williams, but the invitation came from ACCCI (who is not a federally registered lobbyist). Also, none of his former clients will be present. At this type of event, we don't need to worry about whether DTE is being represented by Hunton on an unrelated matter. However, Bill should remember not to engage in any "side bar" discussions with Hunton on any particular matters that involve the firm or their clients.

Please let us know if you have any other questions.

Thanks!
Shannon

Shannon Griffo
Ethics Attorney
Office of General Counsel, Ethics
U.S. Environmental Protection Agency
(202) 564-7061
Griffo.Shannon@epa.gov

From: Lewis, Josh
Sent: Monday, September 10, 2018 12:27 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>; Griffo, Shannon <Griffo.Shannon@epa.gov>
Cc: DeLuca, Isabel <DeLuca.Isabel@epa.gov>
Subject: Request for Bill Wehrum to speak at the Fall 2018 meeting of ACCCI'S MESH Committee

Justina and Shannon,

Bill has been asked to speak at the American Coke and Coal Chemicals Institute (ACCCI) Fall meeting. (More background in the attached). Below you'll see the list of companies likely to participate. ACCCI is not a former client of Bill's, and none of the companies below are former clients either. Though worth noting that DTE was – maybe still is – a client of Hunton (Bill's former law firm).

We're thinking this is a speech Bill can accept, but want to confirm with you. Call or email if you have questions or need additional info/background.

Thanks
Josh
564 2095

From: David Ailor [<mailto:dailor@accci.org>]
Sent: Friday, September 07, 2018 3:24 PM
To: DeLuca, Isabel <DeLuca.Isabel@epa.gov>
Subject: RE: REQUEST FOR YOU TO SPEAK ON THE MORNING OF THURSDAY, OCTOBER 11 AT THE FALL 2018 MEETING OF ACCCI'S MESH COMMITTEE

The companies I know to be attending/participating as of now are:

- ABC Coke
- AK Steel
- DTE-EES
- ERP Compliant Coke
- USS
- Coopers Creek Chemical Corp.
- Koppers
- Lone Star Specialties

Also, Is 900 am to 1000 am (as opposed to 915 am to 1015 am) a possibility? No worries if it's not. DCA

David C. Ailor, P.E.
President
American Coke and Coal Chemicals Institute
25 Massachusetts Avenue, N.W.
Suite 800
Washington, D.C. 20001
Phone: 703-795-3541
eFax.: 866-422-7794
dailor@accci.org
www.accci.org

Appointment

From: Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]
Sent: 9/7/2018 4:19:08 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Shaw, Betsy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31ca1476a7674825a131cb2c0d6c88c8-BShaw03]
Subject: Ethics Training
Attachments: OVERVIEW - one-pager on ethics vetting of invitations.pdf; BROCHURE - Engage in Ethics.pdf; RE: Embedding Ethics into Your Calendaring Process
Location: Alm Room
Start: 9/10/2018 7:00:00 PM
End: 9/10/2018 7:30:00 PM
Show Time As: Busy

To: Bill Wehrum, Betsy Shaw



BROCHURE -
Engage in Ethics...



RE: Embedding
Ethics into Your ...



OVERVIEW -
one-pager on eth...

Appointment

From: Atkinson, Emily [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BB2155ADEF6A44AEA9410741F0C01D27-ATKINSON, EMILY]
Sent: 8/30/2018 5:18:45 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; OARINVITATIONS [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e9706ba8d3d6413980dc908f0068e421-OARINVITATI]
Subject: Environmental Law Institute's 2018 Award Dinner
Attachments: FW: Complimentary Invitation to the Environmental Law Institute's 2018 Award Dinner; Fwd: Ethics advice concerning your invitation to the ELI dinner; Fwd: Ethics advice concerning your invitation to the ELI dinner; FW: Complimentary Invitation to the Environmental Law Institute's 2018 Award Dinner
Location: Omni Shoreham Hotel in Washington, D.C.
Start: 10/23/2018 11:30:00 PM
End: 10/24/2018 1:30:00 AM
Show Time As: Busy

Message

From: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
Sent: 9/4/2018 3:38:30 PM
To: demulling@eli.org
CC: Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]
Subject: FW: Complimentary Invitation to the Environmental Law Institute's 2018 Award Dinner

Hi Melodie,

I understand Bill Wehrum, Mandy Gunasekara, Clint Woods, and David Harlow (all from EPA's Office of Air and Radiation) received invitations to the upcoming award dinner. I'm RSVP'ing on behalf of all of them to let you know that they will be attending.

Call or email with any questions

Josh Lewis
Chief of Staff
EPA/Office of Air and Radiation
Office: 202 564 2095

Begin forwarded message:

From: Campbell Knobloch <knobloch@eli.org>
Date: August 29, 2018 at 3:40:01 PM EDT
To: "Wehrum.william@epa.gov" <Wehrum.william@epa.gov>
Subject: **Complimentary Invitation to the Environmental Law Institute's 2018 Award Dinner**

Mr. Bill Wehrum
Assistant Administrator, Office of Air and Radiation
U.S. Environmental Protection Agency

Dear Mr. Wehrum,

This is a non-transferable complimentary invitation to the Environmental Law Institute's 2018 Award Dinner honoring Lisa Jackson, Apple's Vice President of Environment, Policy and Social Initiatives. The Dinner will be held on October 23, 2018 at the Omni Shoreham Hotel in Washington, D.C. Registration will begin at 5:00 p.m., with a pre-dinner reception beginning at 5:30, and dinner to follow at 7:30 p.m.

Attendance at ELI's Award Dinner has not been prohibited in the past by ethical guidance from United States government departments; however, please consult as appropriate

within your State agency prior to accepting this invitation. Should ethics rules or conflict of interest policies require you to pay, you may send a check (payable to the Environmental Law Institute) to 1730 M Street, NW, Suite 700, Washington, D.C. 20036) in the amount of \$200 to cover the actual value of the discounted government/academic/nonprofit rate ticket.

We hope you'll be able to join us for Washington's premier annual event for environmental professionals from around the country. Please RSVP as soon as possible to Melodie DeMulling, Director of Development at demulling@eli.org or 202-939-3808 regarding your availability to attend the Award Dinner.

Sincerely,

Campbell Knobloch

Development Intern

Environmental Law Institute

knobloch@eli.org

Appointment

From: Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]
Sent: 8/30/2018 5:18:45 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; OARINVITATIONS [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=e9706ba8d3d6413980dc908f0068e421-OARINVITATI]
Subject: Environmental Law Institute's 2018 Award Dinner || Pre Dinner Reception
Attachments: FW: Complimentary Invitation to the Environmental Law Institute's 2018 Award Dinner; Fwd: Ethics advice concerning your invitation to the ELI dinner; Fwd: Ethics advice concerning your invitation to the ELI dinner
Location: Omni Shoreham Hotel in Washington, D.C.
Start: 10/23/2018 9:30:00 PM
End: 10/23/2018 11:30:00 PM
Show Time As: Busy

Appointment

From: Atkinson, Emily [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BB2155ADEF6A44AEA9410741F0C01D27-ATKINSON, EMILY]
Sent: 1/3/2018 6:45:22 PM
To: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Woods, Clinton [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bc65010f5c2e48f4bc2aa050db50d198-Woods, Clin]; Harlow, David [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b5a9a34e31fc4fe6b2beaddda2affa44-Harlow, Dav]
Subject: Auto Show Reception and Dinner
Attachments: Wehrum 1.pdf; Wehrum 2.pdf; Gunasekara 1.pdf; Gunasekara 2.pdf; Woods 1.pdf; Woods 2.pdf; Harlow 1.pdf; Harlow 2.pdf
Location: Completed Ethics Reviews attached
Start: 1/16/2018 10:00:00 PM
End: 1/17/2018 2:00:00 AM
Show Time As: Busy

Appointment

From: Loving, Shanita [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=439CE9C2D2104080A1B5908D3402BF20-LOVING, SHANITA]
Sent: 11/14/2017 3:25:03 PM
To: Wehrum, William [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]
Subject: Ethics Briefing for Bill Wehrum
Location: Bill's office - WJC-N, Room 5406 A
Start: 11/14/2017 9:00:00 PM
End: 11/14/2017 10:00:00 PM
Show Time As: Busy

To: Bill Wehrum, Justina Fugh

Appointment

From: Loving, Shanita [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=439CE9C2D2104080A1B5908D3402BF20-LOVING, SHANITA]
Sent: 12/1/2017 2:24:59 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Fugh, Justina [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=54afbe2e36d3481c8c52d27ba3979d47-JFUGH]; Griffio, Shannon [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6c901eb2c3ba4556a4a581b8816d5a9a-Vallance, Shannon]
Subject: General with OGC/Ethics
Location: Bill's Office, WJC-N Room 5406A
Start: 12/7/2017 7:00:00 PM
End: 12/7/2017 7:30:00 PM
Show Time As: Busy

To: Wehrum, Bill; Fugh, Justina; Griffio, Shannon

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 9/27/2018 6:07:05 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: Here's a pdf of the updated ethics document that I sent to Justina...
Attachments: image2018-09-29-103140.pdf

Message

From: Leopold, Matt (OGC) [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4E5CDF09A3924DADA6D322C6794CC4FA-LEOPOLD, MA]
Sent: 9/17/2018 8:46:54 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: FW: Bill Wehrum's Recusal Statement
Attachments: Wehrum recusal revised 9_17_18.docx

Bill, this version is ready for signature.

From: Griffo, Shannon
Sent: Monday, September 17, 2018 12:14 PM
To: Leopold, Matt (OGC) <Leopold.Matt@epa.gov>
Cc: Minoli, Kevin <Minoli.Kevin@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>; Fugh, Justina <Fugh.Justina@epa.gov>
Subject: Bill Wehrum's Recusal Statement

Matt,

Per Justina's discussion with Elise earlier today, attached is the recusal statement for Bill Wehrum's signature.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Please let us know if you need anything else.

Thanks,
Shannon

Shannon Griffo
Ethics Attorney
Office of General Counsel, Ethics
U.S. Environmental Protection Agency
(202) 564-7061
Griffo.Shannon@epa.gov

Message

From: Leopold, Matt [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4E5CDF09A3924DADA6D322C6794CC4FA-LEOPOLD, MA]
Sent: 3/9/2018 1:01:27 AM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Wilcox, Jahan [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=88fd588e97d3405d869bcae98d391984-Wilcox, Jah]
CC: Bowman, Liz [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=c3d4d94d3e4b4b1f80904056703ebc80-Bowman, Eli]
Subject: RE: AP questions regarding ethics waivers

Thank you Jahan!

Matthew Z. Leopold
 General Counsel
 U.S. Environmental Protection Agency
 (202) 564-8040

From: Wehrum, Bill
Sent: Thursday, March 8, 2018 6:23 PM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>
Cc: Leopold, Matt <Leopold.Matt@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Subject: Re: AP questions regarding ethics waivers

Thanks Jahan. Nice job.

Bill Wehrum
 Assistant Administrator
 Office of Air and Radiation
 U.S. Environmental Protection Agency
 (202) 564-7404

On Mar 8, 2018, at 8:44 AM, Wilcox, Jahan <wilcox.jahan@epa.gov> wrote:

Thanks for all of your help. Justina helped us out with the exact language, which kept you guys out of the story.

<https://www.usnews.com/news/business/articles/2018-03-08/what-swamp-lobbyists-get-ethics-waivers-to-work-for-trump>

From: Biesecker, Michael [mailto:MBiesecker@ap.org]
Sent: Wednesday, March 7, 2018 9:17 PM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>; Pace, Julie <JPace@ap.org>
Cc: Feldman, Carole <CFeldman@ap.org>; Press <Press@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Subject: Re: AP questions regarding ethics waivers

Thanks for the reply.

Get [Outlook for iOS](#)

From: Wilcox, Jahan <wilcox.jahan@epa.gov>
Sent: Wednesday, March 7, 2018 8:25:38 PM
To: Biesecker, Michael; Pace, Julie
Cc: Feldman, Carole; Press; Bowman, Liz
Subject: Re: AP questions regarding ethics waivers

Here is the answer to your question, which I hope you accurately report.

Neither Bill Wehrum nor Dave Ross own any assets that present financial conflicts. This fact is clear in their publically available financial disclosure reports. So, in the ethics agreement compliance, they can't answer "NO, I won't recuse" because that's not true. But it's also not true for them to say "YES, I will recuse" when they have nothing from which to recuse. So the only option is to say "not applicable" because they can answer neither yes or no to this question.

On Mar 7, 2018, at 4:15 PM, Biesecker, Michael <MBiesecker@ap.org> wrote:

Are you declining to answer this?

Also, on the ethics agreements compliance certification reports filed by the agency, both Matt Leopold and Bill Wehrum declined to answered "yes" or "no" on question 6a, which says "I am recusing from particular matters in which I know I have a personal or imputed financial interest ..." Neither has ethics waivers that have been publicly disclosed. Why do they feel that question is "not applicable" to them (even though that was one of the options printed on the form).

From: Wilcox, Jahan <wilcox.jahan@epa.gov>
Sent: Wednesday, March 07, 2018 4:03 PM
To: Biesecker, Michael <MBiesecker@ap.org>; Feldman, Carole <CFeldman@ap.org>
Cc: Press <Press@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Subject: RE: AP questions regarding ethics waivers

"All EPA employees get ethics briefings when they start and continually work with our ethics office regarding any potential conflicts they may encounter while employed here." – EPA spokesman, Jahan Wilcox

From: Biesecker, Michael [<mailto:MBiesecker@ap.org>]
Sent: Wednesday, March 7, 2018 1:57 PM
To: Wilcox, Jahan <wilcox.jahan@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Press <Press@epa.gov>
Subject: AP questions regarding ethics waivers

Liz, Jahan,

AP is reporting for today on ethics agreements and waivers for Trump administration officials. The story will specifically cite the ethics waiver requested EPA and granted by the White House to Erik Baptist, Jeffery Sands and Lee Forsgren. All worked as lobbyists on regulatory issues the waivers allowed them to work on at EPA.

Of 59 political appointees at EPA whose resumes were reviewed by AP, about half have strong industry ties. More than a dozen were registered lobbyists for industries or companies regulated by EPA.

Please provide comment on how, in the agency's view, does this not violate the spirit of President Trump's pledges to drain the swamp?

Also, on the ethics agreements compliance certification reports filed by the agency, both Matt Leopold and Bill Wehrum declined to answer "yes" or "no" on question 6a, which says "I am recusing from particular matters in which I know I have a personal or imputed financial interest ..." Neither has ethics waivers that have been publicly disclosed. Why do they feel that question is "not applicable" to them (even though that was one of the options printed on the form).

Thanks,

Michael

<image001.jpg>

Michael Biesecker
Reporter
mbiesecker@ap.org
Twitter: @mbieseck
[Public Key](#)

<image002.jpg>

1100 13 St. NW, Suite 700
Washington, D.C. 20005-4076
T 202-641-9445
M 202-465-6091

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"There are only two forces that can carry light to all corners of the globe – the sun in the heavens and The Associated Press down here." – Mark Twain, 1906

"I go with Custer and will be at the death." – AP reporter Mark Kellogg's final dispatch from the Battle of the Little Bighorn, 1876

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Message

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 11/15/2017 12:47:22 AM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: We're double checking, but ...

Deliberative Process / Ex. 5

Justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Justina Fugh [Fugh.Justina@epamail.epa.gov]
Sent: 1/10/2018 2:02:34 AM
To: Bill Wehrum [Wehrum.Bill@epamail.epa.gov]
Subject: Status of Your Ethics Travel Form Approval Request

Justina Fugh, the authorized approving official, has approved your form 2610-3 (Approval to Accept Travel under Ethics Reform Act of 1989).

Please click the link below to view or print your approved form. The print button is in the grey area at the top of the form.

This e-mail notification points to a link that contains your approved form. The notification itself is not evidence of OGC's approval. You must use the actual approved form where evidence of approval is needed.



Message

From: Justina Fugh [Fugh.Justina@epamail.epa.gov]
Sent: 1/10/2018 1:52:53 AM
To: Bill Wehrum [Wehrum.Bill@epamail.epa.gov]
Subject: Status of Your Ethics Travel Form Approval Request

Justina Fugh, the authorized approving official, has approved your form 2610-3 (Approval to Accept Travel under Ethics Reform Act of 1989).

Please click the link below to view or print your approved form. The print button is in the grey area at the top of the form.

This e-mail notification points to a link that contains your approved form. The notification itself is not evidence of OGC's approval. You must use the actual approved form where evidence of approval is needed.



Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 12/19/2017 1:38:48 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: FW: updated recusal statement from OGC/Ethics
Attachments: Bill Wehrum recusal 12_11_17.docx; WLW Recusal Summary_SG.docx

You'll see there's a ½ hour w/ Justina/Shannon today. Plan is to (1) walk through the updated documents – you'll see their redline suggestions in the one-pager; and (2) review 1+4 using a couple of recent, specific examples.

Message

From: Justina Fugh [Fugh.Justina@epamail.epa.gov]
Sent: 1/6/2018 3:01:39 AM
To: Bill Wehrum [Wehrum.Bill@epamail.epa.gov]
Subject: Status of Your Ethics Travel Form Approval Request

Justina Fugh, the authorized approving official, has approved your form 2610-3 (Approval to Accept Travel under Ethics Reform Act of 1989).

Please click the link below to view or print your approved form. The print button is in the grey area at the top of the form.

This e-mail notification points to a link that contains your approved form. The notification itself is not evidence of OGC's approval. You must use the actual approved form where evidence of approval is needed.



Message

From: Justina Fugh [Fugh.Justina@epamail.epa.gov]
Sent: 1/6/2018 2:49:16 AM
To: Bill Wehrum [Wehrum.Bill@epamail.epa.gov]
Subject: Status of Your Ethics Travel Form Approval Request

Justina Fugh, the authorized approving official, has approved your form 2610-3 (Approval to Accept Travel under Ethics Reform Act of 1989).

Please click the link below to view or print your approved form. The print button is in the grey area at the top of the form.

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Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 12/6/2017 7:58:06 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: RE: Release of Bill Wehrum's ethics pledge

Ok thanks

From: Wehrum, Bill
Sent: Wednesday, December 06, 2017 2:51 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>
Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Harlow, David <harlow.david@epa.gov>
Subject: Re: Release of Bill Wehrum's ethics pledge

Thanks for flagging this, Josh. I'm fine with releasing it.

Bill Wehrum
 Assistant Administrator
 Office of Air and Radiation
 U.S. Environmental Protection Agency
 (202) 564-7404

On Dec 6, 2017, at 2:16 PM, Lewis, Josh <Lewis.Josh@epa.gov> wrote:

Bill,

I likely won't see you in the next 1-2 hours, which is roughly when OCIR is going to release your ethics pledge – along w/ a group of others (see attached) - to House Energy and Commerce in response to a request from the committee. Not sure there's much we can do given the late notice. Wanted you to be aware.

Josh

From: Aarons, Kyle
Sent: Wednesday, December 06, 2017 1:32 PM
To: Lubetsky, Jonathan <Lubetsky.Jonathan@epa.gov>
Cc: Knapp, Kristien <Knapp.Kristien@epa.gov>; Yaeger, Ryan <Yaeger.Ryan@epa.gov>
Subject: Release of Bill Wehrum's ethics pledge

Hi Jonathan – In response to an oversight request from House Energy & Commerce, we are going to release Bill's signed ethics pledge today. Senate EPW has asked us to keep them updated on ethics releases, so we will send to them as well.

Please let me know if OAR has any concerns.

Thanks,

Kyle

Kyle Aarons
Congressional Affairs
U.S. Environmental Protection Agency
202-564-7351

<signed ethics pledges 12_6_17.pdf>

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 3/28/2018 9:00:27 AM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: Recusal [Deliberative Process / Ex. 5] update
Attachments: Bill Wehrum recusal 3_27_18.docx; ATT00001.htm

Bill,

Deliberative Process / Ex. 5

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 12/6/2017 4:35:44 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: FW: Scheduling Request from OGC/Ethics
Attachments: Bill Wehrum recusal 12_04_17.docx

Importance: High

Attached is what OGC (Justina and Shannon) wanted you to have ahead of your meeting w/ them tomorrow. It's not clear to me how this relates to what you sent me this morning....I'm assuming that will be clarified at the meeting.

From: Griffo, Shannon
Sent: Wednesday, December 06, 2017 8:47 AM
To: Loving, Shanita <Loving.Shanita@epa.gov>
Subject: RE: Scheduling Request from OGC/Ethics

Hi Shanita,

Who should I coordinate with to ensure that Bill has a copy of his draft recusal statement prior to our meeting tomorrow? I've attached it here in case you can provide it to the appropriate person.

Thanks!
Shannon

Shannon Griffo
Ethics Attorney
Office of General Counsel, Ethics
U.S. Environmental Protection Agency
(202) 564-7061
Griffo.Shannon@epa.gov

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 3/12/2018 12:31:53 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]
Subject: RE: Meetings

ok

-----Original Message-----

From: Wehrum, Bill
 Sent: Monday, March 12, 2018 8:30 AM
 To: Lewis, Josh <Lewis.Josh@epa.gov>
 Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>
 Subject: Re: Meetings

I'd still like to meet with Mike. We will plan to leave in time to get back for the meeting with Pruitt.

Bill Wehrum
 Assistant Administrator
 Office of Air and Radiation
 U.S. Environmental Protection Agency
 (202) 564-7404

> On Mar 12, 2018, at 8:29 AM, Lewis, Josh <Lewis.Josh@epa.gov> wrote:

>
 > Yes I'll reach out to Justina.
 >
 > In other news, you probably saw there's a 4 pm w/ the Administrator on MTE. How do you want to handle the 3 pm w/ Mike C? Still go over there in person (and just end early), do by phone, or reschedule?

>
 > Josh

> -----Original Message-----

> From: Wehrum, Bill
 > Sent: Monday, March 12, 2018 8:00 AM
 > To: Lewis, Josh <Lewis.Josh@epa.gov>
 > Cc: Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
 > Subject: Meetings

> Josh - Will you please schedule a few minutes with Justina

> Thanks.

Deliberative Process / Ex. 5

>
 > Bill Wehrum
 > Assistant Administrator
 > Office of Air and Radiation
 > U.S. Environmental Protection Agency
 > (202) 564-7404

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 12/13/2017 4:35:51 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]; Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
CC: Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]
Subject: RE: Meeting Request: Pending SO2 NAAQS Designation for Polk County, Florida - Mosaic New Wales Facility

Just spoke to Diana, who confirmed Hunton is not involved in this issue.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Josh

From: Wehrum, Bill
Sent: Tuesday, December 12, 2017 6:56 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Atkinson, Emily <Atkinson.Emily@epa.gov>
Subject: RE: Meeting Request: Pending SO2 NAAQS Designation for Polk County, Florida - Mosaic New Wales Facility

Mosaic is a Hunton client, although I am not aware that Hunton is representing the company on this issue. If they can confirm that Hunton is not involved, I'm happy to speak with them. Happy to do it as a call if that is easier for them.

From: Lewis, Josh
Sent: Tuesday, December 12, 2017 2:16 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Atkinson, Emily <Atkinson.Emily@epa.gov>
Subject: FW: Meeting Request: Pending SO2 NAAQS Designation for Polk County, Florida - Mosaic New Wales Facility

Bill/Mandy:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Jagiella, Diana M - Plymouth [<mailto:Diana.Jagiella@mosaicco.com>]
Sent: Tuesday, December 12, 2017 1:12 PM
To: Atkinson, Emily <Atkinson.Emily@epa.gov>
Cc: Lewis, Josh <Lewis.Josh@epa.gov>
Subject: Meeting Request: Pending SO2 NAAQS Designation for Polk County, Florida - Mosaic New Wales Facility

Emily,

The Mosaic Company respectfully requests a meeting with Assistant Administrator for Air and Radiation, William Wehrum. We are requesting the meeting because we would appreciate the opportunity to share our perspective regarding the anticipated SO₂ NAAQS designation for Polk County, Florida where our New Wales manufacturing facility is located.

Mosaic has been working proactively on this issue with the Florida Department of Environmental Protection and EPA Region 4. Both agencies are aware that Mosaic is making this meeting request.

We understand that EPA plans to make its final decision by the end of the year. We would appreciate being able to share our viewpoint before that final decision is made. We don't anticipate needing more than 30 to 45 minutes of time. We will make ourselves available at whatever time is convenient for Assistant Administrator Wehrum. As time is of the essence, we respectfully suggest trying to meet this Friday or Monday.

Thank you for your consideration.



Diana M Jagiella | Vice President, Chief Compliance Officer
The Mosaic Company | 3033 Campus Drive | #E490 | Plymouth, MN 55441
Ph: 763.577.2784 | C: [Personal Phone / Ex. 6](#) | E: diana.jagiella@mosaicco.com

Message

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 12/13/2017 12:36:09 AM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]
Subject: Re: Meeting Request: Pending SO2 NAAQS Designation for Polk County, Florida - Mosaic New Wales Facility

Ok thanks. Will get an answer on the Hunton question tomorrow and go from there

On Dec 12, 2017, at 6:55 PM, Wehrum, Bill <Wehrum.Bill@epa.gov> wrote:

Mosaic is a Hunton client, although I am not aware that Hunton is representing the company on this issue. If they can confirm that Hunton is not involved, I'm happy to speak with them. Happy to do it as a call if that is easier for them.

From: Lewis, Josh
Sent: Tuesday, December 12, 2017 2:16 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Atkinson, Emily <Atkinson.Emily@epa.gov>
Subject: FW: Meeting Request: Pending SO2 NAAQS Designation for Polk County, Florida - Mosaic New Wales Facility

Bill/Mandy:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Jagiella, Diana M - Plymouth [<mailto:Diana.Jagiella@mosaicco.com>]

Sent: Tuesday, December 12, 2017 1:12 PM

To: Atkinson, Emily <Atkinson.Emily@epa.gov>

Cc: Lewis, Josh <Lewis.Josh@epa.gov>

Subject: Meeting Request: Pending SO₂ NAAQS Designation for Polk County, Florida - Mosaic New Wales Facility

Emily,

The Mosaic Company respectfully requests a meeting with Assistant Administrator for Air and Radiation, William Wehrum. We are requesting the meeting because we would appreciate the opportunity to share our perspective regarding the anticipated SO₂ NAAQS designation for Polk County, Florida where our New Wales manufacturing facility is located.

Mosaic has been working proactively on this issue with the Florida Department of Environmental Protection and EPA Region 4. Both agencies are aware that Mosaic is making this meeting request.

We understand that EPA plans to make its final decision by the end of the year. We would appreciate being able to share our viewpoint before that final decision is made. We don't anticipate needing more than 30 to 45 minutes of time. We will make ourselves available at whatever time is convenient for Assistant Administrator Wehrum. As time is of the essence, we respectfully suggest trying to meet this Friday or Monday.

Thank you for your consideration.

<image001.jpg>

Diana M Jagiella | Vice President, Chief Compliance Officer

The Mosaic Company | 3033 Campus Drive | #E490 | Plymouth, MN 55441

Ph: 763.577.2784 | C: [Personal Phone / Ex. 6](#) | E: diana.jagiella@mosaicco.com

Appointment

From: Fugh, Justina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=54AFBE2E36D3481C8C52D27BA3979D47-JFUGH]
Sent: 11/14/2017 3:40:45 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: Accepted: Ethics Briefing for Bill Wehrum
Location: Bill's office - WJC-N, Room 5406 A
Start: 11/14/2017 9:00:00 PM
End: 11/14/2017 10:00:00 PM
Show Time As: Busy

Appointment

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 1/30/2018 9:38:09 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: Accepted: Ethics Follow Up Discussion
Location: 5400

Start: 2/6/2018 6:00:00 PM
End: 2/6/2018 6:30:00 PM

Recurrence: (none)

Appointment

From: Lewis, Josh [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B22D1D3BB3F84436A524F76AB6C79D7E-JOLEWIS]
Sent: 12/13/2017 5:03:44 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: Accepted: Follow Up with OGC/Ethics
Location: 5400

Start: 12/19/2017 7:00:00 PM
End: 12/19/2017 7:30:00 PM

Recurrence: (none)

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 9/6/2018 10:49:25 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]; Rakosnik, Delaney [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=274573739a9f446883072599086ededd-Rakosnik, D]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: FW: Embedding Ethics into Your Calendaring Process
Attachments: OVERVIEW - one-pager on ethics vetting of invitations.pdf; BROCHURE - Engage in Ethics.pdf

fyi

Bill Wehrum
 Assistant Administrator
 Office of Air and Radiation
 U.S. Environmental Protection Agency
 (202) 564-7404

From: Monson, Mahri **On Behalf Of** Minoli, Kevin
Sent: Thursday, September 6, 2018 4:36 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>
Cc: Shaw, Betsy <Shaw.Betsy@epa.gov>; Keith, Jennie <Keith.Jennie@epa.gov>
Subject: Embedding Ethics into Your Calendaring Process

Dear Bill,

This communication follows up on the ethics presentation provided by the White House on July 19 and Ryan Jackson's email on August 10. In July, Justina Fugh mentioned an upcoming training project OGC/Ethics is undertaking to better support you and your staff regarding appropriate ethics help on scheduling. OGC/Ethics calls this effort "reviewing and/or vetting invitations."

Set forth below is an executive summary, as well as actions we ask you to take. Attached is a quick one-page description of this effort. If you prefer to read more, [click here](#) for an overview of this ethics counseling practice.

EXECUTIVE SUMMARY and **ACTIONS WE ASK YOU TO TAKE**

OGC/Ethics hopes to:

- Help prevent conflicts of interest and other ethics issues by embedding ethics review into the calendaring process for principals (principals = Acting Administrator, Deputy Administrator, Assistant Administrators, and Regional Administrators, certain Associate Administrators).
- Ensure principals' staff are alert to possible lobbying gift ban and recusal issues, as well as possible Hatch Act, travel and gift concerns.
- Train a variety of audiences on this process during the month of September 2018.

The actions we ask you to take:

- Attend the ethics training for principals during the senior staff meeting on Monday, September 10, 2018 at 2:00PM EST. The Administrator's Office extended the meeting by an additional half hour for the training. Please ask your staff to print out the brochure and your recusal documents to bring to the training – all attached to this email (if none, that means you have no recusal documents). OGC/Ethics will also coordinate with your local ethics officials so that one of them may attend this training with you.
- Work with your Deputy Ethics Official(s), cc'd on this email, to identify which members of your staff should take the other trainings ethics officials will provide during the month of September, and ensure that they take the training.

Thank you for your support.

Your Designated Agency Ethics Official and
Principal Deputy General Counsel,

Kevin Minoli

ADDITIONAL BACKGROUND INFORMATION

You are already familiar with OGC/Ethics because, when you entered government service, we reviewed your new entrant financial disclosure report and helped to identify your ethics issues. However, the ethics process doesn't stop when you come on board. Proactive ethics counseling is necessary to help you avoid ethics issues and maintain the integrity of agency operations throughout your tenure. One of the ways ethics issues present themselves is through your scheduling process.

Therefore, the best way to help you identify and resolve ethics issues with your calendars is to work more closely with your ethics officials. To that end, OGC/Ethics encourages you to embed ethics in the vetting process of your calendar. Here are just a few of the types of ethics issues that come up:

- President's Ethics Pledge – Lobbyist Gift Ban
- Screening for Recusal Obligations
- Gifts
 - Meals related to speaking engagements
 - Receptions
 - Gifts of Travel
- Invitations to Fundraisers
- Invitations to Political Events
- Endorsements

Currently, OGC/Ethics works with the staff of the Administrator, Deputy Administrator, and General Counsel to vet their calendars. Based on our experience, we want to routinize the ethics vetting process across the agency for the most senior leaders to help you "embed ethics" into your calendaring processes. While this is not a new requirement, we're taking this opportunity to implement more consistency and uniformity in this important ethics area.

IMPLEMENTATION: How to Embed Ethics into Your Scheduling Process

Please ask your staff to work with your local ethics officials to integrate ethics advice into the scheduling process. Your staff should vet the following (at a minimum):

- any external (to the agency) event you are seriously considering prior to confirmation of attendance;
- EPA-hosted meetings at which external parties are present; and
- A detailed travel itinerary (frequently referred to as the travel line-by-line document) when you are in travel status.

To assist your staff, OGC/Ethics will provide your office with several tools to aid in the procedure:

- An event request form for external persons to complete when requesting your participation at their event. This form will provide your office with the information it needs to determine whether there are any ethics issues (in addition to general logistical information required when attending the event).
- Sample templates for ethics officials to use when providing you advice.
- Lobbyist gift ban guidance document for your ethics officials to use and ensure you don't inadvertently accept a gift from a federally registered lobbyist.

Finally, implementation of this process will also involve training. OGC/Ethics is kicking off its training efforts first with a 20-minute session for you. This training is currently scheduled for the senior staff meeting on September 10. We will also work with your Deputy Ethics Official to attend this meeting with you.

In addition to training you, OGC/Ethics will also train the headquarters employees who staff the agency's senior leaders, and your ethics officials. Regional ethics officials will work with regional staffers to train them. Training is necessary to understand the ethics issues that arise and why it's important that ethics review is integrated into the calendaring process. This training will take place in September.

We know that this will take some time to implement and there may be some bumps, as all parties adjust to creating a different calendaring process. Please help support your staff's efforts to make sure the scheduling process works for all and that ethics issues are considered. We will be there for you and help support your staff and ethics officials. By implementing this vetting process, we will make the agency's ethics program more effective, strong, and visible, thereby increasing the awareness of all of our ethics obligations and protecting the public's trust. On behalf of OGC/Ethics, thank you.

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 1/12/2018 12:35:44 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: Fwd: Integrity.gov: Report Assigned

Bill Wehrum
 Assistant Administrator
 Office of Air and Radiation
 U.S. Environmental Protection Agency
 (202) 564-7404

Begin forwarded message:

From: Integrity.gov <notifications@integrity.gov>
Date: January 11, 2018 at 2:02:09 PM EST
To: <wehrum.bill@epa.gov>
Subject: **Integrity.gov: Report Assigned**
Reply-To: Integrity.gov Notification <notifications@integrity.gov>

Greetings! OGC/Ethics has assigned you a public financial disclosure report in INTEGRITY. Please follow the directions below.

INCUMBENT REPORT (Annual Report)

Welcome back! Sign into INTEGRITY and get to the "My Tasks" dashboard. From there, open your incumbent report and get started! You can pre-populate your report with your previous INTEGRITY filing, and can upload any OGE-278T (Periodic Transaction) forms that you filed in INTEGRITY. If you don't see an assigned incumbent report, or you believe that you've been assigned this report in error, then send an email to ethics@epa.gov.

INTEGRITY ACCESS REMINDERS

- YOU NEED AN UP-TO-DATE internet browser. INTEGRITY requires Internet Explorer 10 and above, Firefox 31.0 or greater, Safari 5 or greater, Google Chrome 36.0 or greater.
- Go to <https://www.integrity.gov>. INTEGRITY will then route you to the OMB's secure system, [MAX.gov](https://www.max.gov), for authentication. We already established accounts in [MAX.gov](https://www.max.gov) and INTEGRITY for you.
- Your current [MAX.gov](https://www.max.gov) ID is your EPA email address. If you are departing EPA, then you need to write to ethics@epa.gov and provide a non-EPA email address. We have to update your accounts for you that aren't based on the EPA email address.
- If you've never used [MAX.gov](https://www.max.gov), then you'll be prompted to create a password. If you have used [MAX.gov](https://www.max.gov) before, then use the password you already created to access your account (or reset that password if you forgot or it's now expired).
- INTEGRITY saves partially completed forms for you so you can return anytime you want.
- For problems with [MAX.gov](https://www.max.gov), contact them directly for assistance at: MAXSupport@max.gov You can also call them at 202-395-6860

INTEGRITY LOG-IN REMINDERS

- When you first log-in to INTEGRITY, you will see a "contact information" screen to review and complete. At the bottom, indicate that you have read and agree to the User Agreement, then click Submit to view your account. You'll then land on a "My Tasks" dashboard. That's where you'll see the task assigned you (i.e., your new entrant OGE-278e).
- INTEGRITY has helpful resource tools, but you need to be logged on to see them. To learn more about INTEGRITY, check out the "For Filers" tab on the INTEGRITY resource page. If you are having any problems with INTEGRITY itself, send an email to ethics@epa.gov.

TRANSACTION REMINDERS

- Annual and termination public filers must report on certain transactions. Some transactions must be reported periodically (e.g., stocks, bonds), while mutual fund transactions must be reported annually.
- If you used INTEGRITY to file your 278Ts, then you can pre-populate your annual or termination reports. Otherwise, you have to enter those transactions yourself.
- For additional guidance about filling out the OGE-278 annual and OGE-278-T periodic financial disclosure form, see: <https://www2.oge.gov/Web/278eGuide.nsf> or the OGC/Ethics intranet site at <http://intranet.epa.gov/ogc/Integrity/Landingpage.html>.

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 12/19/2017 2:02:35 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
Subject: RE: updated recusal statement from OGC/Ethics

Thanks.

From: Lewis, Josh
Sent: Tuesday, December 19, 2017 8:39 AM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>
Subject: FW: updated recusal statement from OGC/Ethics

You'll see there's a ½ hour w/ Justina/Shannon today. Plan is to (1) walk through the updated documents – you'll see their redline suggestions in the one-pager; and (2) review 1+4 using a couple of recent, specific examples.

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 8/29/2018 8:11:56 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]
Subject: Fwd: Ethics advice concerning your invitation to the ELI dinner

FYI

Bill Wehrum
 Assistant Administrator
 Office of Air and Radiation
 U.S. Environmental Protection Agency
 (202) 564-7404

Begin forwarded message:

From: "Fugh, Justina" <Fugh.Justina@epa.gov>
Date: August 29, 2018 at 2:12:49 PM EDT
To: "Beck, Nancy" <Beck.Nancy@epa.gov>, "Bolen, Brittany" <bolen.brittany@epa.gov>, "Cook, Steven" <cook.steven@epa.gov>, "Darwin, Henry" <darwin.henry@epa.gov>, "Fotouhi, David" <Fotouhi.David@epa.gov>, "Gunasekara, Mandy" <Gunasekara.Mandy@epa.gov>, "Schwab, Justin" <Schwab.Justin@epa.gov>, "Wagner, Kenneth" <wagner.kenneth@epa.gov>, "Wehrum, Bill" <Wehrum.Bill@epa.gov>, "Wildeman, Anna" <wildeman.anna@epa.gov>, "Woods, Clint" <woods.clint@epa.gov>, "Wright, Peter" <wright.peter@epa.gov>
Subject: Ethics advice concerning your invitation to the ELI dinner

Hi there,

OGC/Ethics understands that you have received or will soon receive an invitation from the Environmental Law Institute (ELI) to be its guest at its annual awards dinner to be held this year on October 23, 2018 at the Omni Shoreham Hotel. I am writing to confirm that, if you decide to attend this event, you may do so consistent with the Standards of Ethical Conduct for Employees of the Executive Branch and the Trump ethics pledge that you signed (if you were required to do so).

This event qualifies for the Widely-Attended-Gathering gift exception and the donor is not a federally registered lobbyist. Thus, OGC/Ethics determines that your attendance at the event is in the Agency's interest because it will further agency programs and operations. Should you attend this event, you will NOT be required to report this as a gift on your financial disclosure report form because the gift is valued at \$275, which is BELOW the reporting threshold.

Please note: this approval applies only to invitations from ELI itself. Any invitations from other sources will require separate determinations by either OGC or the appropriate Deputy Ethics

Official. This determination covers you only -- the invitation is not transferable and is not intended for more than just one attendee.

Acceptance of Free Attendance to a Dinner and Fundraiser (WAG rule)

The gift offered is an evening reception and dinner sponsored by ELI. Because the organization is offering you a complimentary ticket, we must analyze it according to the gift rules. Generally, federal employees are prohibited from accepting gifts given because of their official position or given by a prohibited source (typically, a person either regulated by or seeking to do business with the EPA). In this instance, the gift of free attendance is offered to you because of your official position. In analyzing the situation, we determined that the WAG exception is available because the reception will be widely attended, there will be a diversity of views represented, and there is an opportunity for the exchange of ideas. In order to utilize this gift exception, OGC/Ethics must also make a written determination that we believe your attendance is in the Agency's interest. We do, in fact, conclude that there is an Agency interest in your attendance if you wish to go.

Limitations Due to the Fundraiser Event

Please note that this event is a fundraiser. Therefore, ELI cannot use or reference your official position or title or any authority associated with your public office in furtherance of the fundraising effort. You may not actively or visibly participate in the promotion, production, or presentation of the event, which means that you cannot sit at a head table nor stand in a receiving line. We have confirmed with ELI that you will be placed by ELI and not seated at the request of any sponsoring entity that has bought a table.

Please let me know if you have any questions.

Regards,
justina

Justina Fugh | Senior Counsel for Ethics | Office of General Counsel | US EPA | Mail Code 2311A | Room 4308 North, William Jefferson Clinton Federal Building | Washington, DC 20460 (for ground deliveries, use 20004 for the zip code) | phone 202-564-1786 | fax 202-564-1772

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 12/6/2017 11:43:15 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
Subject: FW: Recent Clients
Attachments: Wehrum - Pending Cases [Oct 12, 2017]_66956433_1-c.docx

Josh – Attached is my list of pending cases prior to leaving H&W. As explained in the note below,

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Listed in the e-mail below are all of my recent H&W clients.

It would be helpful to me if you could ask Shanita to produce presentable copies of both lists that could be attached to the one-page recusal summary I sent earlier today. Once we put these materials together, the package will be the guide for everyone to use in navigating around my recusals.

Thanks.

From: Wehrum, Bill
Sent: Wednesday, November 15, 2017 2:02 PM
To: Fugh, Justina <Fugh.Justina@epa.gov>
Cc: Harlow, David <harlow.david@epa.gov>
Subject: Recent Clients

Justina – Here is a list of all clients to which I billed time in the 24 months preceding my EPA start date.

Deliberative Process / Ex. 5**Deliberative Process / Ex. 5**

Also, attached is a list of all pending cases in which I have made an appearance.

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5**Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 12/6/2017 1:05:02 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
Subject: Recusal Summary

<!--[if lte mso 15 || CheckWebRef]-->

Wehrum, Bill has shared a OneDrive for Business file with you. To view it, click the link below.



WLW Recusal Summary.docx

<!--[endif]-->

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 12/22/2017 5:47:13 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
CC: Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]
Subject: Re: Meeting Request

Yes. **Deliberative Process / Ex. 5**

Bill Wehrum
 Assistant Administrator
 Office of Air and Radiation
 U.S. Environmental Protection Agency
 (202) 564-7404

On Dec 22, 2017, at 12:33 PM, Lewis, Josh <Lewis.Josh@epa.gov> wrote:

We should talk about this one.

Josh

From: Wehrum, Bill
Sent: Friday, December 22, 2017 11:40 AM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Atkinson, Emily <Atkinson.Emily@epa.gov>
Subject: Fwd: Meeting Request

Meeting request ...

Bill Wehrum
 Assistant Administrator
 Office of Air and Radiation
 U.S. Environmental Protection Agency
 (202) 564-7404

Begin forwarded message:

From: Richard Moskowitz <RMoskowitz@afpm.org>
Date: December 22, 2017 at 11:35:39 AM EST
To: "Wehrum, Bill" <Wehrum.Bill@epa.gov>
Subject: RE: Meeting Request

Hi Bill,
 Just following up on this to let you know I haven't heard from your scheduler. If you'd like me to follow up with them directly, let me know. In the meantime, I hope you and your wife have a very happy holiday.

Thanks,

Richard Moskowitz
General Counsel

American
Fuel & Petrochemical
Manufacturers
1667 K Street NW
Suite 700
Washington, DC 20006
202.552.8474

rmoskowitz@afpm.org
Learn more about AFPM at afpm.org

CONFIDENTIALITY NOTICE: This electronic message contains information from the American Fuel & Petrochemical Manufacturers that may be confidential or privileged. The information is intended solely for the use of the individual(s) or entity(ies) named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or use of the contents of this message is prohibited. If you have received this e-mail in error, please notify us immediately by telephone at (202) 457-0480 or by reply e-mail and permanently delete this e-mail, any attachments, and all copies thereof

From: Wehrum, Bill [<mailto:Wehrum.Bill@epa.gov>]
Sent: Wednesday, December 6, 2017 7:40 AM
To: Richard Moskowitz <RMoskowitz@afpm.org>
Subject: RE: Meeting Request

Hi Rich. Happy to meet. I'll send this along to my scheduling folks. They will reach out to you to find a suitable time.

From: Richard Moskowitz [<mailto:RMoskowitz@afpm.org>]
Sent: Wednesday, December 6, 2017 7:38 AM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>
Subject: Meeting Request

Good morning Bill,
I hope you're settling in nicely. AFPM would like to schedule a meeting with you and your team to discuss state ZEV mandates. Would you please reply to this email with some times that work for you and your team?

Thanks,
-Rich

Richard Moskowitz
General Counsel

American
Fuel & Petrochemical
Manufacturers
1667 K Street NW
Suite 700
Washington, DC 20006
202.552.8474

rmoskowitz@afpm.org
Learn more about AFPM at afpm.org

CONFIDENTIALITY NOTICE: This electronic message contains information from the American Fuel & Petrochemical Manufacturers that may be confidential or privileged. The information is

intended solely for the use of the individual(s) or entity(ies) named above. If you are not the intended recipient, be aware that any disclosure, copying, distribution, or use of the contents of this message is prohibited. If you have received this e-mail in error, please notify us immediately by telephone at (202) 457-0480 or by reply e-mail and permanently delete this e-mail, any attachments, and all copies thereof.

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 8/17/2018 1:17:16 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; DeLuca, Isabel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0b021c30cbee4637a7c7ca683e5e044a-IDELUCA]
Subject: Fwd: Outstanding Questions re Bill Wehrum, second of two emails. RESPONSE NEEDED BY FRIDAY at NOON.
Attachments: 2017_12_07 UARG briefing at Hunton with PowerPoint.pdf; ATT00001.htm; 2017_12_5 NSR Staff meeting Wehrum Calendar.pdf; ATT00002.htm; 2017_11_3 AFPM_Hunton Presentation Shared by with EPA STAFF.pdf; ATT00003.htm

Bill Wehrum
 Assistant Administrator
 Office of Air and Radiation
 U.S. Environmental Protection Agency
 (202) 564-7404

Begin forwarded message:

From: "Konkus, John" <konkus.john@epa.gov>
To: "Jackson, Ryan" <jackson.ryan@epa.gov>, "Hewitt, James" <hewitt.james@epa.gov>, "Abboud, Michael" <abboud.michael@epa.gov>, "Beach, Christopher" <beach.christopher@epa.gov>, "Block, Molly" <block.molly@epa.gov>, "Wehrum, Bill" <Wehrum.Bill@epa.gov>
Subject: **FW: Outstanding Questions re Bill Wehrum, second of two emails. RESPONSE NEEDED BY FRIDAY at NOON.**

Going to flag this for Leopold and Justina now. Deadline noon tomorrow.

From: Eric Lipton [<mailto:lipton@nytimes.com>]
Sent: Thursday, August 16, 2018 11:52 AM
To: Block, Molly <block.molly@epa.gov>; Wehrum, Bill <Wehrum.Bill@epa.gov>; Press <Press@epa.gov>
Subject: Outstanding Questions re Bill Wehrum, second of two emails. RESPONSE NEEDED BY FRIDAY at NOON.

Hello again Molly and Bill.

Here are a few specific outstanding questions I wanted to ask based on items that have come up since I spoke with Bill back in April. I am writing them out very specifically with backup documents in a few cases so the questions are clear and easier to respond to.

1) Mr. Wehrum's calendar that we obtained via FOIA includes a Dec. 7 2017 meeting at the DC offices of Hunton, where Mr. Wehrum gave a presentation on the Clean Air Act. **See the attached materials in attachment 1.** The Trump ethics pledge says that a lawyer should not meet with former clients for two years including any "meeting or other communication relating to the performance of one's official duties with a former employer or former client, unless the communication applies to a particular matter of general applicability and participation in the

meeting or other event is open to all interested parties." How does this meeting honor that requirement? This was not a public meeting. And UARG is a former client.

2) Mr. Wehrum, before he was nominated but while his paperwork was being reviewed for the nomination, had a meeting at the EPA in June 2017 on behalf of brick manufacturers association to discuss concerns by the industry with the brick emissions rule. In October 2017, the EPA asked a federal court to "hold all proceedings in abeyance in these consolidated petitions for review" related to this case, as it was going to reconsider this rule. Is Mr. Wehrum working on this matter, in terms of the proposed policy change? And separately, he he participating in the handling of the litigation?

3) Has Mr. Wehrum signed his recusal letter. He explained to me why he had not. I just wanted to see if he has now decided to sign it. If so, I can have a copy of it please.

4) During the review of the NSR Policy memo issued on Dec. 7, 2017, I was told that Mr. Wehrum participated in a Dec. 5 2017 staff meeting (**see attachment 2**, although I know that this listing does not mention what was specifically discussed) where the matter was discussed, and where Susan Bodine among others expressed concerns about the changes, which included not "second guess" emissions projections. I had asked Bill about this general issue. I subsequently was told about this specific meeting on Dec. 5, where the matter was discussed. Why was it ok for Bill to participate in this meeting. A participant said that a copy of the memo was distributed at the meeting that had certain redactions, removing DTE's name. Is that the explanation. Welcome input.

5) I wanted to ask for Mr. Wehrum to react to criticism from some folks that the change in the "once in, always in" policy could result in a significant increase in release of harmful pollutants. Is this a fair criticism?

6) When the March 13 2018 memo was released clarifying NSR projection evaluations, Mr. Wehrum was quoted in the news release, but he decided not to go to the ceremony where several companies including Marathon and Valero were invited to mark the event. We were told that Mr. Wehrum felt he would work on the policy, as it broadly impacts regulated parties (it is not a particular matter involving specific parties) but he could not attend this event, as former clients were there and it was a private event. Any comment on that. Is that a correct reading of the events here?

7) A memo was sent to the EPA on Nov 3 2017 (**see attachment 3**) that was from a presentation that Bill gave along with Kenneth Weiss related to NSR changes the petro chemical industry wanted to see made. I read the presentation which was based on the memo that is included in this email, and I noted that several of the changes in NSR underway "project netting" and "project aggregation" and also "second guess" issues reflect priorities here. Is this anything that is bad about this correlation? Is Mr. Wehrum, in the policy revisions he has worked on, helping with these changes because it was part of an industry agenda?

8) Finally, I wanted to ask more directly here a point that emerges from these questions: Some outsiders look at the actions the EPA has taken since Mr. Wehrum was confirmed and say that Mr. Wehrum is working to benefit the interests of his former clients. What is your reaction to that assertion? Why is that a misreading of his efforts?

Thanks again for your help. Happy to clarify any of these questions.

I need a response by Noon Friday.

ERIC

Eric Lipton

The New York Times

Washington Bureau

202 862 0448 office

202 370 7951 mobile

lipton@nytimes.com

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 8/17/2018 1:16:20 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; DeLuca, Isabel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0b021c30cbee4637a7c7ca683e5e044a-IDELUCA]
Subject: Fwd: Belated follow up for story re Bill Wehrum. 1 of two emails.

Bill Wehrum
 Assistant Administrator
 Office of Air and Radiation
 U.S. Environmental Protection Agency
 (202) 564-7404

Begin forwarded message:

From: Eric Lipton <lipton@nytimes.com>
Date: August 16, 2018 at 11:11:52 AM EDT
To: "Block, Molly" <block.molly@epa.gov>, wehrum.william@epa.gov, Press <press@epa.gov>
Subject: Belated follow up for story re Bill Wehrum. 1 of two emails.

Hi Molly and Bill

I am sending this email to follow up on an interview I did several months ago with Bill Wehrum related to his work at the agency for a story that will be running in next couple of days. A response by the end of the day to this would be great. As this is not complicated. Just running these quotes by you.

The story examines the work Bill is on Clean Air Act policy. In the course of that, it examines how this work at the E.P.A. relates to work he previously did with private sector clients he had before he joined the agency.

The story is built around the fact that as a former lawyer (who was not registered as a lobbyist), he is not restricted from participating in regulatory matters he handled in the two years prior to joining the administration.

In this email, I wanted to go over a few of the quotes I am using from our interview. And I had a few specific outstanding questions. Here are three quotes from our interview on April 26 that I am going to use.

Liz Bowman was on the call. She has obviously left. But she asked me to let you know which quotes I am going to use. So there they are.

Describing his work early in his career in Delaware:

"I was the guy who had to figure out if we needed permits and would go get permits for the plant That sort of drives a lot of how I think about this."

Re the ethics rules

"I am scrupulously complying with my ethical obligations," he said.

Re the recusal letter

"What is a particular matter?" I have gotten three different interpretations and what I don't want to do is sign a recusal letter and then have the rules change again."

RE his efforts at the agency

"More than anything, I just want to get stuff done,"

Eric Lipton

The New York Times

Washington Bureau

202 862 0448 office

202 370 7951 mobile

lipton@nytimes.com

{"email-

policy":{"state":"closed","expirationUnit":"days","disableCopyPaste":false,"disablePrint":false,"disableForwarding":false,"expires":false,"isManaged":false},"attachments":{"},"compose-window":{"secure":false}}

Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 8/17/2018 1:16:03 PM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]; DeLuca, Isabel [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0b021c30cbee4637a7c7ca683e5e044a-IDELUCA]
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Attachments: 2017_12_07 UARG briefing at Hunton with PowerPoint.pdf; ATT00001.htm; 2017_12_5 NSR Staff meeting Wehrum Calendar.pdf; ATT00002.htm; 2017_11_3 AFPM_Hunton Presentation Shared by with EPA STAFF.pdf; ATT00003.htm

Bill Wehrum
 Assistant Administrator
 Office of Air and Radiation
 U.S. Environmental Protection Agency
 (202) 564-7404

Begin forwarded message:

From: "Eric Lipton" <lipton@nytimes.com>
To: "Block, Molly" <block.molly@epa.gov>, "Wehrum, Bill" <Wehrum.Bill@epa.gov>, "Press" <Press@epa.gov>
Subject: Outstanding Questions re Bill Wehrum, second of two emails. RESPONSE NEEDED BY FRIDAY at NOON.

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rule. Is Mr. Wehrum working on this matter, in terms of the proposed policy change? And separately, he he participating in the handling of the litigation?

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8) Finally, I wanted to ask more directly here a point that emerges from these questions: Some outsiders look at the actions the EPA has taken since Mr. Wehrum was confirmed and say that Mr. Wehrum is working to benefit the interests of his former clients. What is your reaction to that assertion? Why is that a misreading of his efforts?

Thanks again for your help. Happy to clarify any of these questions.

I need a response by Noon Friday.

ERIC

Eric Lipton
The New York Times

Washington Bureau
202 862 0448 office
202 370 7951 mobile
lipton@nytimes.com

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Message

From: Wehrum, Bill [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33D96AE800CF43A3911D94A7130B6C41-WEHRUM, WIL]
Sent: 12/14/2017 12:40:12 AM
To: Lewis, Josh [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b22d1d3bb3f84436a524f76ab6c79d7e-JOLEWIS]
CC: Gunasekara, Mandy [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=53d1a3caa8bb4ebab8a2d28ca59b6f45-Gunasekara,]; Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]
Subject: Re: Meeting Request: Pending SO2 NAAQS Designation for Polk County, Florida - Mosaic New Wales Facility

No preference.

Bill Wehrum
 Assistant Administrator
 Office of Air and Radiation
 U.S. Environmental Protection Agency
 (202) 564-7404

On Dec 13, 2017, at 11:35 AM, Lewis, Josh <Lewis.Josh@epa.gov> wrote:

Just spoke to Diana, who confirmed Hunton is not involved in this issue. **Deliberative Process / Ex. 5**

Deliberative Process / Ex. 5

Josh

From: Wehrum, Bill
Sent: Tuesday, December 12, 2017 6:56 PM
To: Lewis, Josh <Lewis.Josh@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Atkinson, Emily <Atkinson.Emily@epa.gov>
Subject: RE: Meeting Request: Pending SO2 NAAQS Designation for Polk County, Florida - Mosaic New Wales Facility

Mosaic is a Hunton client, although I am not aware that Hunton is representing the company on this issue. If they can confirm that Hunton is not involved, I'm happy to speak with them. Happy to do it as a call if that is easier for them.

From: Lewis, Josh
Sent: Tuesday, December 12, 2017 2:16 PM
To: Wehrum, Bill <Wehrum.Bill@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>
Cc: Atkinson, Emily <Atkinson.Emily@epa.gov>
Subject: FW: Meeting Request: Pending SO2 NAAQS Designation for Polk County, Florida - Mosaic New Wales Facility

Bill/Mandy:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

From: Jagiella, Diana M - Plymouth [<mailto:Diana.Jagiella@mosaicco.com>]

Sent: Tuesday, December 12, 2017 1:12 PM

To: Atkinson, Emily <Atkinson.Emily@epa.gov>

Cc: Lewis, Josh <Lewis.Josh@epa.gov>

Subject: Meeting Request: Pending SO₂ NAAQS Designation for Polk County, Florida - Mosaic New Wales Facility

Emily,

The Mosaic Company respectfully requests a meeting with Assistant Administrator for Air and Radiation, William Wehrum. We are requesting the meeting because we would appreciate the opportunity to share our perspective regarding the anticipated SO₂ NAAQS designation for Polk County, Florida where our New Wales manufacturing facility is located.

Mosaic has been working proactively on this issue with the Florida Department of Environmental Protection and EPA Region 4. Both agencies are aware that Mosaic is making this meeting request.

We understand that EPA plans to make its final decision by the end of the year. We would appreciate being able to share our viewpoint before that final decision is made. We don't anticipate needing more than 30 to 45 minutes of time. We will make ourselves available at whatever time is convenient for Assistant Administrator Wehrum. As time is of the essence, we respectfully suggest trying to meet this Friday or Monday.

Thank you for your consideration.

<image001.jpg>

**Diana M Jagiella | Vice President,
Chief Compliance Officer**

The Mosaic Company | 3033 Campus Drive

| #E490 | Plymouth, MN 55441

Ph: 763.577.2784 | C: Personal Phone / Ex. 6

| E: diana.jagiella@mosaicco.com

Appointment

From: Atkinson, Emily [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BB2155ADEF6A44AEA9410741F0C01D27-ATKINSON, EMILY]
Sent: 8/30/2018 5:18:45 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: Environmental Law Institute's 2018 Award Dinner
Attachments: FW: Complimentary Invitation to the Environmental Law Institute's 2018 Award Dinner; Fwd: Ethics advice concerning your invitation to the ELI dinner; Fwd: Ethics advice concerning your invitation to the ELI dinner; Re: Complimentary Invitation to the Environmental Law Institute's 2018 Award Dinner; FW: Complimentary Invitation to the Environmental Law Institute's 2018 Award Dinner
Location: Omni Shoreham Hotel in Washington, D.C.
Start: 10/23/2018 11:30:00 PM
End: 10/24/2018 1:30:00 AM
Show Time As: Busy

Appointment

From: Atkinson, Emily [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=BB2155ADEF6A44AEA9410741F0C01D27-ATKINSON, EMILY]
Sent: 8/30/2018 5:18:45 PM
To: Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]
Subject: Environmental Law Institute's 2018 Award Dinner || Pre Dinner Reception
Attachments: FW: Complimentary Invitation to the Environmental Law Institute's 2018 Award Dinner; Fwd: Ethics advice concerning your invitation to the ELI dinner; Fwd: Ethics advice concerning your invitation to the ELI dinner
Location: Omni Shoreham Hotel in Washington, D.C.
Start: 10/23/2018 9:30:00 PM
End: 10/23/2018 11:30:00 PM
Show Time As: Busy